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BY

SIR JOHN MACDONELL, K.C.B., LL.D., F.B.A.

AND

C. E. A. BEDWELL, Esq.

"Δεῖ καὶ τὰς ἄλλας ἐπισκέψασθαι πολιτείας . . . ἵνα τό τ'ὀρθῶς ἔχον ἐφθῇ καὶ τὸ χρήσιμον."—Arist. *Pol.* II. 1.

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THE HON. SIR J. G. KOTZÉ.

[*Contributed by* G. VAN ZYL, ESQ.]

THE Hon. Sir John Gilbert Kotzé, Kt., K.C., LL.B. (London) LL.D. (Cape), was born at Leeuwenhof, Cape Town, on November 5th, 1849, and is the youngest son of P. J. Kotzé, who was twice Mayor of the City of Cape Town, which he at one time represented in the House of Assembly.

He was educated first at the "Tot Nut van Het Algemeen" Institute and afterwards at the South African College, now the Cape Town University. In May 1869 he went to England for the purpose of studying law. After matriculating at London University he entered as a student of the Honourable Society of the Inner Temple. In 1872 Kotzé obtained the Senior Exhibition in Common Law, awarded by the Council of Legal Education, and in January 1873 he took his degree of LL.B. at the London University. Early in 1874 he entered the Chambers of Mr. William Willis, Q.C., afterwards a County Court Judge. On April 30th, 1874, he was called to the Bar. Shortly after this he married Mary Aurelia, daughter of Daniel Bell, of Milton House, Clapham, and in August of the same year he returned to the Cape and practised for a short while at the Bar of the Supreme Court, in Cape Town. In June 1876 he removed to the Bar of the Eastern Districts Court, at Grahamstown. Here he started his *magnum opus*, the translation of Van Leeuwen's *Commentaries*.

In 1887 he was offered and accepted the position of Chief Justice of the South African Republic. On arrival at Pretoria he found that the Transvaal had been annexed by England; but, as both the South African Republican and the English representatives desired him to remain, he consented to do so, and on May 19th, at the early age of twenty-seven, he was sworn in as a Judge of the High Court of the Transvaal, On the retrocession of the Transvaal, in August 1881, he was, by the Pretoria Convention, appointed one of the Imperial Sub-commission to investigate claims for compensation for losses and injuries sustained during the war. Deciding to remain in the country, he was appointed its first Chief Justice. Things, however, did not run very smoothly; and in the winter of 1882 the Chief Justice, who was dissatisfied with the attitude of President Krüger, resigned and accepted the first puisne udgeship of the New High Court of Griqualand West, created that year by an act of the Cape Parliament. He was not destined, however, to fill this position, as the weight of public opinion in the Transvaal was against his resignation as Chief Justice, and he was induced to remain there.

In October 1886 occurred what is known as the Nellmapius Case. The interference of President Krüger in this case led to the resignation of Judge Brand, who considered that he was obliged to take this step

in order to vindicate the independence of the Bench. The Chief Justice, however, who had returned from Circuit on the following day, ordered the rearrest of Nellmapius, a man of some position and considerable influence, and whom the Executive had pardoned while the decision of the full Bench on the points reserved at the trial was still pending.

In 1896 His Majesty the King of Portugal conferred on him the honour of Knight Grand Cross of the Order of the Conception in recognition of his services in the Transvaal.

In 1897 was decided the important constitutional case of *Brown* v. *Leyde, N.O.* The Government of the South African Republic had for some time past been legislating to a great extent by means of Volksraad Resolutions (*Besluiten*). In this case the Court held that a Volksraad Resolution could not, according to the Constitution, have the force of law, because it was not in the form required, and for the further reason that, as a rule, in the case of such Resolutions the necessary publication for three months before passing was not observed.

This ruling much annoyed President Krüger, who at once determined to crush the independence of the Court and make it thoroughly subservient to the Volksraad. He hastily introduced into the Volksraad a draft law by which it was intended to prevent the High Court from calling into question the validity of any laws or resolutions that had been, or that might in the future be, passed by that Chamber, and by it the President was " empowered to ask the members of the Judiciary whether they deem it in accordance with their oath and duty to dispense justice according to the present and future laws and Volksraad Resolutions, and not to arrogate to themselves the so-called testing right, and His Honour is further empowered to dismiss from office those members from whom His Honour receives a negative answer, or in his opinion insufficient answer, or no answer whatever, within the time given by him for the purpose."

After much correspondence, after intercession by another great South African lawyer, and after promises by the President which were never fulfilled, the Chief Justice, who had dared to protest and to endeavour to uphold the independence of the justiciary, was on February 16th, 1898, after long years of hard work and faithful service, dismissed by President Krüger.

Although all the five judges of the High Court had taken part in protesting against the violation of the independence of the Court, only one, Dr. H. A. Ameshoff, stood by his chief when trouble came, and resigned.

In 1900 Kotzé was appointed Attorney-General of Southern Rhodesia with a seat in the Legislative and Executive Councils of that country. In February 1902 he was made a King's Counsel, and for a portion of that year acted as Administrator of Southern Rhodesia. In 1903 he was appointed to a Judgeship to the Supreme Court in the Cape Colony, with a seat on the Bench of the Eastern Districts Court, and later was appointed Judge-President of that Court. In 1913 he was appointed to a seat on the Bench of the Supreme Court at Cape Town.

The numerous judgments delivered by Mr. Kotzé during his long tenure of the offices of Judge and Chief Justice of the Transvaal and South African Republic fully testify to his qualifications as an impartial, painstaking and sound judge. It may be said that he and Lord de Villiers have done more than any other lawyers to expound and settle the principles and more obscure points of the Roman-Dutch system of law,

although it may be added they have not always been in agreement, as, for example, on such important points as the true ground of an owner's liability for damage or injury caused by his dog ; the validity of marriage-brokage contracts, and the eminently practical question as to whether *causa* and *consideration* in the law of contract denote the same thing. Sir John Kotzé holds that the owner's liability rests on his ownership of the animal, and not on *culpa* or negligence, that a marriage-brokage contract shown to be *ex causa afflicta* is enforceable by action, and that a contract will be binding and actionable although not founded on *consideration* in the sense of the English law, provided there be some *justa causa* or legitimate ground for the promise. Recently his views on this last subject were confirmed by the Privy Council in *Jayawickreme* v. *Amarasuriya* (1918, 119 *Law Times Rep.* 499), and by the Appellate Division of the Supreme Court of the Union of South Africa in *Conradie v. Russouw* (June 1919).

His great work in the North will leave its mark on the history of South Africa, though, as in many other cases, it will probably be left to history to appreciate properly and fully the sterling qualities of one of South Africa's greatest sons.

ANNUAL REPORT.

THE year 1919 was the twenty-fifth anniversary of the foundation of the Society. Never was it more flourishing, its work more appreciated, or the outlook for its usefulness and influence better. Its subscribers have increased. Its financial position gives no cause for apprehension. Notwithstanding difficulties which, in common with all societies, it has experienced, it has been able to carry on, and in some directions even extend, its work. The amount received from individual subscribers was £150 more than in the previous year. There was a further addition to the large number of libraries in the United States which were already subscribers; old friends of the Society, who have assisted its work in various ways, became subscribers and new members were enlisted in various parts of the world. To show that the interest in the labours of the Society is not confined to lawyers, it is enough to mention a few of the new subscribers. The list includes: Lord Ampthill, G.C.I.E., Birmingham Public Library, British North Borneo Company, Cardiff Public Library, Central Organisation for a Durable Peace (The Hague), Czecho-Slovak Republic, Dr. C. L. Torley Duwel (Director of the International Intermediate Institute), Senor Vicente Echevarria (Chilian Consul-General), Land and Agricultural Bank of South Africa, Lord Leverhulme, R. Courtenay Luck, Esq., F.R.G.S. (Queensland), Lyons University, J. M. MacLeod, Esq. (British Consul-General, Valparaiso), Manchester Chamber of Commerce, Mysore University Library, Sheffield Public Library, and Messrs. Thomson, McLintock & Co.

The Committee are again indebted to the Honourable Societies of Gray's Inn, Lincoln's Inn, and the Middle Temple, the Law Society and the Royal Colonial Institute for grants amounting to £84. The Society receives no grants from Government, but certain departments of the Home, Dominion and Indian Governments, and Colonies not possessing responsible Government, are members of the Society and subscribe for copies of the *Journal*.

The greater portion of the subscriptions which had fallen into arrears was paid up and there is no doubt that the balance will be received. The item of £291 from that source includes £182 from subscribing Governments.

There has been a substantial increase in the amount derived from the sales, mainly of back numbers, which has risen from £17 to £57. This is one of the matters to which it has been possible to give attention owing to the engagement, since the beginning of the year, of a clerk whose whole time has been devoted to the work of the Society.[1]

On the expenditure side of the account the steady increase in the cost

[1] The clerk is always glad to hear from members who have spare copies of back numbers of the *Journal*. There is a waiting list of orders which could be fulfilled and more could be obtained if the stock were available.

of printing has necessitated some modification in the form of the *Journal*, though the quantity of matter has not been reduced. The large item for paper includes sufficient for the whole of the year 1920.

The contributors for 1919 included the Right Hon. the Lord Chancellor; the Right Hon. the Earl of Reading, Lord Chief Justice; G. G. Alexander, Esq.; H. L. L. Bellot, Esq.; J. H. Balfour Browne, Esq., K.C.; C. E. Buckland, Esq., C.I.E.; S. W. Clarke, Esq.; H. Bertram Cox, Esq., C.B.; R. Newton Crane, Esq.; the Rev. R. B. Fellows; Sir Albert Gray, K.C.B.; Professor Goudy; Professor Hazeltine; Professor Hearnshaw; F. N. Keen, Esq.; Professor Berriedale Keith; R. King, Esq.; C. M. Knowles, Esq.; Professor R. W. Lee; P. B. Malabari, Esq.; H. B. Morse, Esq.; His Honour Judge Parry; G. G. Phillimore, Esq.; Professor Reed Powell; C. M. Picciotto, Esq; H. J. Randall, Esq.; Professor Orman Ray; R. F. Roxburgh, Esq.; the Hon. Sir Charles Wade; Lieutenant Commander E. Hilton Young, M.P.

Ths scope of the articles in the *Journal* has been somewhat widened, as the editors desire to deal with many subjects still untouched. They wish particularly to obtain contributions showing impartially the actual effect of laws initiating new principles or important new applications of old. In developing the *Journal* the editors have been assisted by old friends of the Society, among whom they desire expressly to mention Dr. Eliot, Emeritus President of Harvard University; Professor Harrison Moore, of Melbourne University, and Professor Peden of Sydney University.

The annual *Review of Legislation*—a record of statutes and ordinances in all parts of the Empire, as well as some foreign countries—receives increasing recognition from social workers, politicians, and all who are concerned with the great problems raised by the changed conditions following upon the termination of a state of war. The Committee were indebted to the following contributors of the *Reviews of Legislation* for their gratuitous assistance: C. G. Alabaster, Esq., O.B.E.; Cecil Bayley, Esq.; the Hon. E. St. John Branch, K.C., Attorney-General, Jamaica; J. Christie, Esq.; R. Newton Crane, Esq.; Hon. A. de Freitas; Makram Ebeid, Esq.; L. H. Elphinstone, Esq.; the Hon. Hugh Godley; Stanley Fisher, Esq., Puisne Judge, Cyprus; Sir Albert Gray, K.C.B.; Sir Reginald Gray, K.C.; Sir W. H. Greaves, Chief Justice, Barbados; Sir Robert Hamilton, Chief Justice, East Africa; A. J. Hannan, Esq.; G. Hartog, Esq.; D. T. Jardine, Esq.; L. G. Kneale, Esq.; G. S. Knowles, Esq.; E. Koenig, Esq., Procurator-General, Mauritius; the late Professor Lefroy, K.C.; L. Maartensz, Esq., Additional Judge, Ceylon; M. J. F. McDonnell, Esq., Legal Adviser, Gambia; J. V. Macken, Esq.; the Hon. Harcourt Malcolm, K.C., Speaker, Bahamas; E. L. Matthews, Esq., C.M.G., K.C.; Siegfried Matz, Esq.; E. C. Mayers, Esq.; J. W. Michelin, Esq.; Professor Harrison Moore, C.M.G.; A. P. Muddiman, Esq.; E. T. Nicolle, Esq., Viscount of Jersey; the Hon. J. J. Nunan, K.C., Attorney-General, British Guiana; N. Julian Paterson, Esq., K.C., Attorney-General, Grenada; the Hon. H. A. Robson, K.C.; the Hon. J. E. M. Salmon; M. C. Sansas, *Docteur en droit*; R. W. Shannon, Esq., K.C., Legislative Counsel, Saskatchewan; E. Gardiner Smith, Esq., Crown Prosecutor, Nigeria; F. L. Stow, Esq., Crown Solicitor, Western Australia; Mr. Justice Fabre Surveyer; the Hon. W. M. Wigley, Attorney-General, St. Christopher and Nevis; A. K. Young, Esq., K.C.; his Honour Judge Zichy-Woinarski.

The Committee are glad to state that the Society has been able to render assistance, in response to requests, to various bodies, official and non-official, as well as to individuals in the collection of information about laws and their operation, and also the supply of bibliographical information. There is reason to think that the usefulness of the Society in this direction will increase.

The Committee regret to record the loss through death during the year of the following members of the Council: Baron de Courcel, the Hon. Alfred Deakin, Sir Francis Mowatt, and the Right Hon. W. P. Schreiner, K.C., in addition to their former honorary secretary, Mr. Edward Manson. They are glad to report that the Right Hon. the Lord Chancellor, Right Hon. Lord Milner, Right Hon. A. J. Balfour, M.P., and Right Hon. E. S. Montagu, M.P., have become ex-officio members of the Council, and that Dr. Eliot, Emeritus President of Harvrad University, Sir R. R. Garran, C.M.G., Solicitor-General of Australia, Sir J. G. Kotzé, Supreme Court of South Africa, and Sir Leslie Probyn, K.C.M.G., Governor of Jamaica, have again shown their interest in the work of the Society by the acceptance of invitations to join the Council.

At the end of the year, by the kind invitation of the Council of the Royal Colonial Institute, a meeting was held in connection with the twenty-fifth anniversary of the Society. A record of the proceedings follows this Report.

Besides increasing efficiency, the engagement of a clerk has effected considerable economy. From the beginning of the year the *Journal* was published at the Society's Chambers, where stock is held so that copies are readily obtainable. In 1914, in addition to a commission of 10 per cent. to the publisher, the Society paid £100 for secretarial work when it was barely half what it is at the present time. On the same basis, without allowance for the additional clerical work, the expenditure would have been £146 compared with £130 in the accounts for this year.

The present state of the accounts gives no cause for anxiety, but it is desirable that the income should be substantially augumented in order that the many opportunities available at the present time for the extension of the Society's work may be fully used. The Committee will gladly welcome donations of large or small amounts to supplement the general income of the Society. The central situation of the Society's headquarters in the Temple is likely to prove more and more advantageous as its work develops. The year has marked a distinct step forward in the Society's work, and the Committee confidently anticipate a growing appreciation of its importance.

The Committee desire to record their appreciation of the valuable work done for the Society during the past year by their Secretary and by their clerk, Mrs. Campbell.

RECEIPTS.

	£	s.	d.
To Balance in hand at January 1, 1919	232	0	4
„ Amount of arrears collected in 1919:			
(*a*) Governments	182	10	0
(*b*) Other than Governments	108	19	0
„ Grants received from:			
Law Society — 21 0 0			
Lincoln's Inn — 21 0 0			
Middle Temple — 21 0 0			
Gray's Inn — 10 10 0			
Royal Colonial Institute, 1918-1919 — 10 10 0			
	84	0	0
„ Subscriptions:			
(*a*) Governments	189	17	0
(*b*) Other than Governments	359	18	7
„ Rent of Chambers sub-let	46	5	0
„ Sales of *Journal*, including back numbers	57	1	0
„ Miscellaneous Receipts	5	3	6
„ Interest on War Loan	7	0	0
„ Subscriptions in advance	39	15	0
	1,312	9	5

EXPENDITURE.

	£	s.	d.
By John Murray, printing and publishing Second Series No. 41	316	15	3
„ Hazell, Watson & Viney, printing Third Series, No. 1	135	0	9
„ Hazell, Watson & Viney, printing Third Series, No. 2	196	7	11
„ Art Reproduction Co. Portrait, Third Series, No. 1	9	17	0
„ Art Reproduction Co. Portrait, Third Series, No. 2 (and Copyright £2 2s.)	14	15	7
„ Art Reproduction Co. Portrait Third Series, No. 3 (Plate only)	2	17	6
„ J. Dickinson & Co., paper	101	10	4
„ Clerk (at the rate of £120 per annum)	116	5	0
„ Rent of Chambers	62	0	0
„ Postage and Petty Cash	43	5	2
„ Typewriter and furniture	29	17	6
„ Mimeographing and clerical honorarium	14	1	9
„ Printing and Stationery	13	4	5
„ Coal	4	13	0
„ Purchase of Back Nos.	1	10	0
„ Refund of subscription	1	1	0
Balance in hand December 31, 1919	249	7	3
	1,312	9	5

TWENTY-FIFTH ANNIVERSARY OF THE SOCIETY.

In connection with the twenty-fifth anniversary of the Society a meeting was held by kind invitation of the Council of the Royal Colonial Institute on December 18. In the absence of the Home Secretary, the Right Hon. E. Shortt, K.C., M P., owing to the death of his brother, the chair was taken by Sir Albert Gray, K.C.B., K.C., who was supported by Sir Charles Lucas, K.C.B., chairman of the Council of the Institute, and Sir Mackenzie Chalmers, K.C.B. Letters of regret at inability to attend were read by Mr. E. T. Scanmell, Hon. Secretary of the House and Social Committee, from Sir Courtenay Ilbert, G.C.B., Chairman of the Executive Committee of the Society, Lord Haldane, Lord Muir Mackenzie, Lord Phillimore, the Right Hon. Sir Frederick Pollock, the Chinese Minister, and others.

Sir Albert Gray, in his opening remarks, directed attention to the recent work of Professor Ramsay Muir on National Self-government, wherein he points out, with true insight, how great is the value to a country of its obedience to law, and, moreover, its criticism of law. In some instances we have seen a splendid code of laws given to a country which is not capable of using it. In such a country there would probably be no criticism of that law, but among the countries which are imbued with Western ideas there is not only respect for law but criticism, both before it is passed and after it is passed. We, therefore, should not have a too superstitious veneration, but a critical respect for it. In former days, in England, one of the greatest judges on the English bench, Lord Coke, had so great a respect for the common law that he said this: "Let no man set up his own reason against the common law, because the common law is the perfection of reason." That blind superstitious veneration for the common law no longer exists. We criticise both the common law and the statute law, and it is more necessary in these days because of the great complexity of the law and the affairs of the world. We have seen, with regard to the war, how the whole interests of the world were concerned in it. Nearly every nation was involved in the war, and even neutral nations were more involved than ever before. In considering the question of law in relation to outsiders, it may at once be seen that the interests of the whole world are now intermixed and interwoven. We also find that the conditions upon which the law operates are very similar in all the countries which are governed by Western ideas. Take, for instance, the Mercantile Law; the conditions are alike throughout the civilised world, and in regard to merchant shipping law and the law of bills of exchange, of which our friend, Sir Mackenzie Chalmers, is so great an exponent, and for which he has done so much, there is a general tendency to similarity. Every problem connected with social life is apt to reappear in different parts of the world. It was on such considerations

as these, and following in the steps of a Society which had already been founded in France, that, twenty-five years ago to-morrow, the Society of Comparative Legislation was founded in England. During those twenty-five years this Society has done very excellent work. It was founded by Sir Courtenay Ilbert, following upon the reading of a paper at the Imperial Institute. The Society was opened by Lord Herschell, and we have had very many distinguished names on our Council and on the Committees. In addition to that, we have published a *Journal* at different times during the whole of those twenty-five years, and in that *Journal* we have given place to papers on all subjects of comparative law as they present themselves in different parts of the world and in our Dominions as well as in our own country. Those papers have been acknowledged to be of the greatest interest and value to those who are engaged in preparing legislation, as promoters or draftsmen, in our Dependencies, in America, and elsewhere. We have learned, for instance, on very doubtful and difficult subjects, what attempts at legislation have been made in the different countries. That is a necessary foundation in these days for legislation on any subject. If you find there is no precedent, you have to be a pioneer; but in most cases we find nowadays that the subject has been dealt with in some way or other in some country, and the Society of Comparative Legislation does its part in keeping a record of those experiments and of the success or ill success of the endeavours.

Mr. Bedwell, in his paper on Imperial Unity and Legal Research, which was printed at length in the January number of the *Journal*, after noting the general trend of legislation towards uniformity throughout the Empire, advocated the institution of a Committee of Legal Research on the lines of the Privy Council Committee of Industrial and Scientific Research. He suggested that its duties would be:

(i) To arrange for reports upon the legal aspects of any subject under special investigation;

(ii) To organise the supply of material for legal research; and

(iii) To disseminate information concerning laws and their operation with a view to the enlightenment of public opinion. Such a Committee would obviate overlapping, especially in the duplication of libraries and conduct of research, and so introduce economy and efficiency into a department of administration which at present is marked by chaotic and wasteful absence of co-ordination and method.

In opening the discussion, the Chairman observed that there is no doubt that in the case of the distribution of the Colonial Acts amongst the various libraries in London there is great waste, but the difficulty is to know where to stop it. Speaking of the Parliamentary Libraries, he did not think there is very much use in having all the Colonial Acts deposited there. On the other hand, when you come to the Inns of Court, there is the greatest need for them to be there, and handy to the practitioner. Not only is it important to have reports there which are most valuable, but it is also necessary to have the Acts. When a barrister has a case he wants to know at once what to refer to, and he goes to the library of his own Inn. If he had to go some distance away there would be a certain amount of disadvantage. Of course there are difficulties in obtaining co-ordination, but, notwithstanding those difficulties, he was sure that in some directions a great deal could be done.

In reply to a question by Dr. Grice, Mr. Bedwell stated that in the United States there are at least fifteen libraries which contain all

the Statutes and all the Reports of the British Empire. Whereas if all the Libraries in London were put together it is doubtful whether there would be a complete set. There is not the same need for co-ordination and united action there as there is here, because it is a much larger area. Apparently they are far more awake as regards the need for information, and the result is that money is more freely spent. Each library can be complete, whereas here no library is complete.

Sir Harry Wilson referred to the very fine collection of law in the Library of the Royal Colonial Institute. It is not all displayed in the Law Library, but it is to be found to a large extent in the underground regions of the Institute. A very large extension of the building is contemplated, and one of the schemes includes the question of providing much better accommodation for the Law Library.

In reply to a question as to the uniformity of commercial law, Sir Mackenzie Chalmers explained that, on the whole, the common law has been adopted in various statutes throughout England and the United States. The Hague Conference, on the law of Bills of Exchange, drew up a uniform law. Everybody hoped that the result would be to have two systems instead of a multiplicity of systems as there is at present in foreign countries. For all working purposes you have uniformity here. England and the United States could not sacrifice that for the benefit of the continental system. On the other hand, the continental peoples had certain rules which they were very much attached to, which have been in force as long as foreign commerce has gone on. Although they adopted the same principles, they preferred their own regulation, which was assented to by thirty-five nations, and the terms of assent were that each nation undertook to enact it, subject to certain modifications, to their own territory.

Mr. H. Macfie suggested whether it would be possible to bring about a meeting of the draftsmen of the Acts of the various Dominions. He alluded particularly to the industrial laws, and gave one particular instance in New South Wales. The more recent industrial legislation passed there was supposed to be of an exceedingly scientific character, but when that Act was put into force it was discovered that the ramifications of it were large. He attributed that, to a great extent, to the fact that the draftsmen, in preparing that Bill for Parliament, were not in possession of the data which the Society of Comparative Legislation is anxious to provide, so that valuable information can be obtained in drafting important Acts, which are interwoven. In Australia they have consolidated many Acts.

Sir Charles Lucas asked whether it was proposed that the Advisory Committee, or whatever it is, should be confined to citizens of the United Kingdom, or whether it should be a *sine qua non*, as he thought it should be, that there should be on it representatives of all, at any rate, the great Dominions and India. Mr. Bedwell agreed, and pointed out that upon the Council of the Society of Comparative Legislation are representatives of all the Dominions.

Hon. J. G. Jenkins stated that he had had an opportunity of visiting three of the principal libraries dealing with the law and other subjects in the United States. In the Law Library at Washington and in the Law Library at Harvard, there is a better record of our Dominions' Acts and Acts of the British Empire than in any of our libraries here, unless it is the Library of the Institute. In the Law Library at Harvard

the Librarian said: "You are from Australia. Come with me; I will show you every Act which has been passed in Australia from the commencement of the Constitutional Government up to the present time, and also the Law Reports upon the Acts which have been passed." He went through the school, where there were some thousand law students at work. More than half of them were busily arranging their studies, and studying the British law and the Dominions law, and comparing that with the United States law.

Industrial legislation of the whole British Empire was laid practically at the disposal of the Labour Conference, which was recently held in Washington, in order to give them an idea to discuss matters from the point of view of other parts of the world, as well as to discuss it from the United States point of view.

After Major Hely Pounds had spoken, Mr. Newton Crane replied to questions asked by Mr. A. Montefiore and gave particulars which were printed in the January number of the *Journal*. He added that he had the pleasure of participating in the organisation of the Society of Comparative Legislation, and had been more or less connected with its work in his duties as Member of the Council. The Society owes its success from the start given to it by Sir Courtenay Ilbert and by the fostering care of two gentlemen, Sir John Macdonell and Mr. Bedwell. Nowadays there are two subjects which are foremost among social reformers in this country. The first, the welfare of children, is being divided into certain departments. The other is the care of the unmarried mother and her offspring. Attention has been directed to that matter from the fact that people are now realising that from the awful havoc of this war the manhood of the country has been impaired, and the question is, how best to repair the loss occasioned in that way. Heretofore, the condition of the unmarried mother has been deplorable in this country, and, so far from any attention being paid to her offspring, we find in the old textbooks that she was to be publicly punished for her offence of bringing an illegitimate child into the world, and the child was to bear the stigma of his lack of legitimate parentage for the rest of his days. When the Council of the Unmarried Mother was organised, an attempt was made to get the laws of different countries on the subject, to see if any improvement could be made in our bastardy laws. Out of about twenty Acts of the Australian, New Zealand, and South African Governments, with Mr. Clarke Hall's help, has been prepared a Bill which, it is hoped, will be passed into law into this country in the near future. The greatest good and the most useful information has been obtained from those laws. Another matter is pressing now, and that is the question of adoption. It may not be known that England is the only civilised country in the world which has not a law with regard to adoption. There is no way by which a child may be legally adopted by a foster parent in this country without going through the machinery of the Chancery Courts and having the child made a Ward of Court, which is impossible in the majority of instances. With regard to adoption, there again the movers of this Bill, or those who have prepared it, have gone to the Colonies, and then to the United States, to see what they could find there, and they are drafting a Bill on the lines of the State of New York which has been followed by most of the States in the United States. He mentioned these facts in order to show that it is not simply the lawyers who want the laws, but also those who are most affected by the laws. That is true of industrial questions.

The labour men in this country are striving to find some solution of the problems that are weighing on them by going to other countries to see what is being done in the way of legislation. In the United States there is this great advantage. Although there are forty-eight independent Sovereign States, each with its own Government, and each with its own Legislative Body, they act among themselves or within themselves with the same idea in the way of legislation that any independent Colony does here. But they are so closely knit together, as he trusted that this Empire will be in the future, that what is done in any one State is very speedily known in another. Then there is a moving force for unifying those laws. There is a National Bar Association which meets every year and appoints Standing Committees upon various subjects of interest. Through the exertions of that Standing Committee, for example, there has been enacted what is called a Chalmers Bill throughout the United States, and so with respect to domestic legislation and other matters which affect the community as a whole. Those bodies are constantly working. Then each State has its Bar Association, and each State has its Standing Committee, and they make it their business to call upon the representatives of different bodies to instruct them in the necessity of uniformity and to get them to introduce the uniform law which is so greatly desired. But the greatest help comes from the Government. The United States Government has not any fear of a printing bill, and the result is that in many of the Administrative Departments of the Government there are Intelligence Bureaus which compile and get together in every possible way the very best papers that can be written by men engaged in research in almost every direction, and those papers are widely distributed. Postage is paid on them, and they are sent to every person who applies for them, and the Members of Congress from the different States make it their business to ingratiate themselves with their constituents by supplying them with this literature. A farmer, for example, is instructed as to the formation of the soil of the particular region in which he lives. A fruit-grower has all papers upon the pests which are likely to destroy his trees, and so it goes on in one way or another. Then, in the same way, they are working on this question of the co-operative advantage, or the comparative advantage, of the laws of different countries.

Mr. A. P. Poley emphasised what had been said in the paper under discussion. How many of the evils that have beset us at different times might have been avoided if we had had the *Journal of Comparative Legislation*, or a body like the Society which was able to propagate the ideas of one part of the Empire as against another! With the growth of the British Empire it is necessary that something should be done on a larger scale than that which is done now. The system of government which we have is this: you must govern by the consent of the governed. How can you govern by the consent of the governed unless the governed know what you are talking about, unless you can explain to the governed what you mean? Therefore it becomes more necessary, in the future government of the world, let alone the British Empire, that one nation should have a better understanding of another. That can only be done by equipping the people of the country with the necessary knowledge.

Dr. Grice illustrated the extent to which the subject of comparative legislation is of interest to other people besides lawyers, and the absence of information in this country. It has become an axiom that, if you want

to know what is being done in the British Empire, ask somebody in the United States. Is this what we want? Is it really quite sufficient for us? The trouble is, we do not regard this subject as of sufficient interest to the people as a people, and we have not public opinion behind us. It will require a big effort on the part of people before anything is done. Public opinion has to be impressed with this subject. How can we impress it? The only way is to show them what they lose by the absence of co-ordination to-day. There are suggestions abroad, even societies in operation, and there are projects of instruction being drawn up to instruct the members of what they hope will be the future Labour Government as to what has happened within the bounds of our own Empire. The Labour Members acknowledge that, so far as our Empire is concerned, as far as foreign policy is concerned, their lives have been so much wrapped up in the propaganda work in the home country that, for the purposes of government of the Empire, they are lacking in some essentials. There are projects abroad to help them. The idea, if you can get that down low enough, is good. The trouble is that we pitch it too high. What used to be the most common thing at the time of the Old Age Pensions Act? At the time that project was first brought forward, those who were most keen about it, where did they find their arguments? Not in any sentimental provision for old age. They said: "No, if you want to know what sort of Pension Act we want, look to New Zealand; if you want to know what we want in the way of labour, look at what they have done in Australia." At that time it was the commonest thing in the world for Labour leaders of a particular type to quote, for the purposes of their argument, these very things which had happened within the Dominions and which were not known to ordinary people very often, and they quoted them for the purpose of bringing their theoretical disquisitions down to terra firma. They said, if it works in South Africa, and New Zealand, why do we not try it at home? That is the spirit. If you get hold of it properly then it will be a good thing for us generally.

In moving a vote of thanks, Sir Charles Lucas said that he could not imagine anything more likely to lead to a united Empire than that the citizens of the united Empire should compare the laws under which they are governed by extending the study of what is known as comparative legislation.

REVIEW OF LEGISLATION, 1918.

INTRODUCTION.

[*Contributed by* Sir Courtenay Ilbert, G.C.B.]

The Review of Legislation in the current number of the *Journal* contains summaries of the laws passed in the year 1918 in practically every part of the British Empire and its Dependencies, and in four foreign countries. Every year our annual Review of Legislation tends to increase in bulk, and in the number and variety of the topics with which it has to deal. For every year seems to enlarge the activities of modern Legislatures, and to extend the regions of human life which they endeavour to regulate and control. Thus year by year the summary of these activities becomes a more arduous task, and every year imposes a heavier burden on those who have to collect, arrange, and digest the heterogeneous mass of materials drawn from every part of the world, and upon those at home who have to edit, so far as is necessary or practicable, the materials thus collected. The task is indeed one which might appear to some to be too ambitious to be undertaken by a Society with our limited resources. It could not be accomplished without the willing and effective co-operation of our contributors, co-operation which, as we regret, and as our critics must remember, is given without payment. In many cases we have been fortunate enough to obtain the services of men who, as law officers or official draftsmen, can write with full knowledge, and with authority, about the laws which they describe, and we are deeply grateful to them for the help which they have given us in the intervals snatched from a busy official or professional life. In other cases we have been allowed to avail ourselves of materials collected and arranged either by Governments or by such bodies as the American Bar Association. It is not improbable that such sources of information will multiply and improve in the future, as the need for them and their utility is increasingly recognised.

The Moral and Material Progress Report for British India, as now edited for the newly established Publicity Department of the Government of India, supplies an excellent example of the kind of information required by those who attempt to follow the course of legislation in different countries. But it covers a far wider ground than that to which our efforts are limited. The new *Journal* of the Parliaments of the Empire has a different scope. Whatever may be the defects of our review, we may, without presumption, claim that it constitutes a repertory of recent legislative experiments, unparalleled in range and extent, and abounding in instruction and suggestion to those who, in different parts of the world, are concerned or interested in legislation. It ought to be supplemented,

and we are not without hopes that it may from time to time be supplemented in the pages of our *Journal* by articles tracing the course of legislation during a limited period, not in particular countries, but on particular topics. The thousand and one topics which should thus be dealt with would include such matters as the conditions of labour, the status of women, infant welfare, public health, education—but enumeration even by way of illustration is impossible. The articles should endeavour to show, not merely what laws have been passed, but, a far more difficult task, whether they have worked and how they have worked.

The Parliamentary Session of 1918 at Westminster witnessed, not indeed the termination of the Great War, but the termination, by the November armistice, of active hostilities between the belligerent countries. It also brought to an end the long Parliament which began in 1910, and was extended, by successive statutes, beyond, not merely the quinquennial period fixed by the Parliament Act of 1911, but the old septennial period. Its legislation was concerned mainly with matters arising out of the war, and was largely of a temporary character. But it included some permanent measures, of first importance, and not connected with the war. Foremost among them are Mr. Fisher's great Education Act for England and Wales, attended by a corresponding measure for Scotland, and supplemented by a measure providing non-contributory pensions for teachers, not only in elementary schools, but in all places of education other than Universities. To the same class belong the Act qualifying women for election to the House of Commons, a posthumous offspring of the Representation of the People Act, the Act which consolidated the complicated Income Tax Acts and made possible the projected amendments of the Income Tax Law, the British Nationality and Status of Aliens Act, which empowered, and in some cases required, the Secretary of State to revoke certificates of naturalisation, an Act setting up Land Drainage Boards, an Act establishing an Overseas Trade Department of the Government, and another dealing with maternity and child welfare. A very fruitful crop for the last year of an aged and expiring Parliament.

In Canada the Dominion Parliament set up three Civil Service Commissioners for controlling appointments to the Civil Service of Canada. It also conferred the electoral franchise upon women who are British subjects of the age of twenty-one years or upwards, and possess the qualifications which entitle a male person to vote. Some of the provincial Legislatures had previously passed measures in the same direction. For instance, the 1918 session of the Alberta Legislature was attended by two women Members, and is claimed to have been the first occasion in the history of the British Empire upon which women have occupied seats in a British Legislature. In the same year Ontario and Nova Scotia conferred the franchise on women. Our contributor for British Columbia directs attention to the burden of taxation, the insolvency of municipalities, and the bold experiments in social legislation and in legislation about land. The Newfoundland Act giving power to prohibit imports and exports was a war measure, but was to continue in operation for five years after the termination of the war.

The Legislature of the Australian Commonwealth was busy with war measures such as the War Precautions Act, the War Service Homes Act, the Australian Soldiers' Repatriation Act, and the Deceased Soldiers' Estates Act, and with financial measures, of which some, but not all,

arose out of the war. They include the Income Tax Assessment Act, the War Times Profits Tax Assessment Act, and Acts increasing the amount and widening the scope of various taxes. But the Legislature also found time to amend its electoral law, and to provide for methods of postal voting and preferential voting. By the latter phrase is meant what is commonly known in this country as the method of the alternative vote.

The legislation of the Australian provinces was, as usual, much concerned with labour. An amending Act passed by New South Wales made important alterations in the Industrial Arbitration Act of 1912. It restored the right to strike, but placed the right under restrictions. The same Act established a Board of Trade, of which the main functions relate to the living wage and to apprenticeship. It is interesting to note that the living wage in Sydney and its neighbourhood is declared to be £3 17s. per week. Separate parts of the Act provide for the organisation of the labour market and insurance against unemployment. But labour was far from being the only subject with which the New South Wales Legislature was engaged. It passed a general law for the protection of birds and animals. It introduced the system of proportional representation into the election of Members of the Legislative Assembly, and, by its Women's Legal Status Act, it enabled women to be elected to the Legislative Assembly, to hold various public offices, and to be admitted into the legal profession.

The review of Queensland legislation covers three years, the review of two of them having been interrupted by the Great War. Some of the Acts largely extend the functions of the State. Victoria has made comprehensive changes in the law of Real Property by two Acts of which one is largely based on the report of the Royal Commission on Land Transfer Acts which investigated the subject in 1911. This is only one of the subjects dealt with by the numerous Victorian Acts on various topics. Western Australia has amended its public health law by dealing with the difficult and unpleasant subject of venereal disease.

New Zealand legislation was concerned largely with matters arising out of the war, but extended to many other subjects. The Housing Act illustrates the difficulty of supplying housing accommodation even in countries less densely populated than England. The Intoxicating Liquors Act raised the issues of national continuance of sales and national prohibition without compensation. Under another Act of 1918, the commencement of the 1914 Act which provided for an elective instead of a nominative Legislative Council has been postponed.

Room has been found for an account of the Ordinances made for such little known regions as the Gilbert and Ellice Islands Colony, and the Western Solomon Islands Protectorate.

The consolidating Electoral Act passed by the Union of South Africa in 1918 left untouched the pre-Union qnalifications and disqualifications for enrolment of persons on the electoral roll, and Mr. Matthews' full and careful account of this Act shows the modes in which the "colour bar" was, and is, dealt with by the laws of the different provinces. His review also contains interesting accounts of the consolidating Acts relating to the registration of deeds in the several provinces, and to the jurisdiction of magistrates, of the new Factories Act with its concomitant the Regulation of Wages of Apprentices and Improvers Act, and of the Transvaal mining law. A joint sitting of the two Houses of the Union Parliament was held in 1918 to amend the Constitution under the Imperial

South African Act of 1900. The Transvaal Legislature in 1918 repealed an Act of 1914 which had established a system of proportional representation in municipal elections. It also imposed a tax on bookmakers—in the racing sense of the word—and on bachelors.

In British India the Governor-General's Legislative Council overhauled the income-tax law, and, after much debate and difference of opinion, continued the exemption for incomes derived from agricultural property. It dealt with the time-honoured subject of usurious loans, and passed a new law framed somewhat on the lines of the English Moneylenders Act of 1900. An Act for the provisional collection of taxes seems to have been suggested by the English Act associated with the name of Mr. Gibson Bowles. Among the many other topics dealt with by the Legislative Council was the licensing of cinematographs. The Bombay Legislature touched on the subject of primary education. The Punjab Legislature dealt with the difficulties of housing accommodation at Simla, and was allowed, contrary to the usual practice, to pass a law which amended the general Code of Criminal Procedure by authorising the Court to make orders and restrictions confining the movements of offenders within specified areas. Among the subjects dealt with by Ceylon Ordinances were money-lending, the Roman-Dutch law of mortgages, and the registration of business names. Space fails for touching on the numerous and various topics of interest dealt with by the Acts and Ordinances for the Mauritius, the Straits Settlements, the Federated Malay States, West and East Africa, and the West Indies. Under the head of the Mediterranean Colonies will be found Cyprus, Egypt, Gibraltar, and Palestine. The area under British control in Palestine nearly corresponds with Biblical Palestine west of the Jordan. It has up to this time been governed by what is called the Occupied Enemy Territory Administration Force. Lieutenant-Colonel Norman Bentwich describes how legislative power had been exercised within the area:

"In the Proclamation issued by General Allenby on December 9, the day of the entry into Jerusalem, he declared the city to be under martial law; and, explicitly and tacitly, that condition has been extended to the rest of the occupied territory. The Occupant has therefore been entitled to issue such ordinances and regulations as he found necessary for the security of the Army and the better administration of the country. By the laws and usages of war he has been prohibited from changing the laws of the country, imposing new taxes, or setting up a new form of civil government which would involve a change of sovereignty. But under the same authority he has been justified in making temporary provision for the new circumstances in which the country has actually been placed."

Nothing can be more interesting than the way in which the Occupant, as Colonel Bentwich calls him, has exhibited his legislative or quasi-legislative activity by various proclamations, ordinances, and public notices. Among other things, he has been courageous enough to promulgate ordinances amending and modifying the Moslem system of rules concerning marriage and family relations, and amending the procedure of the special religious Courts.

The most important and interesting of the reviews of foreign legislation is abridged from the Report of the American Bar Association. It would be impertinent to do more than commend to the reader's attention the diversified bill of fare which the review presents.

BRITISH EMPIRE.

I. BRITISH ISLES.

1. UNITED KINGDOM.

[*Contributed by the* Hon. Hugh Godley, *Assistant Parliamentary Counsel.*]

The parliamentary session of 1918 lasted from February 12 till November 21; and a few days later, or about a fortnight after the Armistice with Germany, Parliament was dissolved, having lasted since the end of 1910, or three years in excess of the period fixed by the Parliament Act.[1]

Imperial legislation during 1918 still consisted principally of such measures as were necessary for the purposes of the war, being comprised partly in Acts of Parliament, to which allusion is made hereafter, and partly, as in the preceding years of the war, in Defence of the Realm Regulations and other forms of subsidiary legislation issued under emergency powers conferred by Parliament.

As in former sessions, however, circumstances arising indirectly out of the war led to the passing of general permanent Acts of considerable importance, which process was considerably facilitated by the suspension during the war period of the ordinary party hostilities.

The leading permanent measures of the session were undoubtedly the Education Act (c. 39) and the Education (Scotland) Act (c. 48), of which a more detailed account is given at the end of this review. The remainder of the review is occupied with (1) Temporary War Measures, and (2) Permanent Measures (other than the Education Acts).

(1) Temporary War Measures

The process of applying so far as possible the whole of the national energy and wealth to the purposes of the war was continued up to the cessation of hostilities in November, by measures of which only the following need special mention here. Included in the list are measures which were passed at the end of the session and arose directly out of the termination of hostilities.

Military Service.—C. 5, passed at the time and in consequence of the great German offensive in April, represents the high-water mark of conscription in the United Kingdom. It provided for raising the age for compulsorily military service to fifty, and abolished practically all

[1] **The duration of Parliament was prolonged from time to time by Acts passed during the war.**

exceptions except those in favour of disabled men, and of ministers of religion. Power was also taken (though never exercised) to apply the Act to Ireland by Order in Council.

Juries (c. 23). This Act, though limited to the war period, may afford experience which will be usefully applied to peace time. Its main provision limits the right to trial by jury. All civil proceedings in the High Court and inferior Courts are, with certain specified exceptions, to be tried without a jury, but discretion is given to a Court to order a jury trial in any case where it appears that the matter is more fit to be tried with than without a jury, or where the personal character of one of the parties is affected, *i.e.* actions for fraud, libel and the like.

The Act also (1) extends the age for jury service to sixty-five; (2) provides machinery for reducing the cost of preparing jury lists; and (3) gives power to coroners to hold inquests without a jury.

Naval Prize.—C. 30 provides that if His Majesty in Council signifies his intention to make a grant of prize money out of the proceeds of prize captured in the war, the sums received shall be paid to the Naval Prize Fund, and that prize money shall be paid from that fund to members of the Naval and Marine Forces in such manner as may be determined by Order in Council. This alters for the period of the war the rights of the officers and crew of a ship who, under the Naval Prize Act, 1864, would have received a sum calculated at the rate of £5 for each person on board the enemy ship at the beginning of the engagement, distributed amongst such officers and members of the crew as were actually present.

Other War Acts related to the enforcement of food control orders (c. 12), the reckoning of war service for the purpose of solicitors' articles (c. 16), the raising of a new war loan (c. 25), the establishment of small holdings colonies for discharged soldiers (c. 26), Government war obligations (c. 28), trading with the enemy (c. 31), increase of statutory maximum charges (c. 34), and the counting of votes of absent voters at an election (c. 50).

Acts passed at the conclusion of the session and arising out of the termination of hostilities included:

Defence of the Realm (Employment Exchanges), c. 58, which enables possession of premises to be taken compulsorily for the purpose of setting up employment exchanges in connection with the demobilisation of the forces;

Termination of the War (Definition), c. 59, which enables His Majesty by Order in Council to fix the date of the termination of the war for the purpose of the interpretation of statutory and other documents, provision being made that the date to be declared should be, as nearly as may be, the date of the exchange or deposit of the ratifications of the treaty or treaties of peace;

Ministry of Munitions, c. 61, which extends the powers of the Minister of Munitions so as to include the supervision and regulation of the diversion to production of articles required in times of peace to industries established or utilised during the war for the purpose of the production of war material; and

Wages (Temporary Regulation), c. 61, which stabilises for a period of six months the rates of wages in force at the date of its passing (November 21, 1918).

(2) Permanent Measures (other than the Education Acts)

In some ways the most important of these Acts was the **Income Tax Act** (c. 40). This Act,[1] consisting of 239 sections and seven schedules, is one of the most extensive measures of pure consolidation which has ever been passed by Parliament, and involved the repeal of the whole or part of some fifty statutes, including the whole of the Income Tax Acts of 1842 and 1852, and the whole of the Taxes Management Act, 1870, so far as it relates to income tax. The importance of this measure lies not only in its inherent provisions, but also in the fact that only when the tangled mass of enactments relating to income tax have been consolidated is it possible to consider seriously the important measures which are contemplated for revising the whole machinery of income tax administration.

Other Acts of importance passed during the session were as follows:

Parliament (Qualification of Women), c. 37. This Act, as a natural sequence of the enfranchisement of women in 1918, removes the disqualification of women for being elected to the House of Commons.

British Nationality and Status of Aliens (c. 38). The principal object of this Act is to place on a more satisfactory footing the power of the Secretary of State to revoke certificates of naturalisation. This power was formerly confined to the revocation of certificates which had been obtained by false representations or fraud. The new Act provides further for the revocation of a certificate if, after due inquiry, the Secretary of State is satisfied that it has been obtained by any concealment of material circumstances, or that the person to whom the certificate was granted has shown himself to be disaffected or disloyal to His Majesty. The Act, moreover, specifies that certain circumstances are automatically to lead to the revocation of a certificate, namely:

(1) Trading with the enemy during war;

(2) Imprisonment within five years from the grant of the certificate for a term not exceeding twelve months;

(3) The fact that the grantee was not of good character at the date of the grant of the certificate;

(4) Residence out of the British Empire (except for certain specified purposes) for a period of seven years or more;

(5) The fact that the grantee remains according to the law of a State at war with His Majesty a subject of that State;

the Secretary of State being satisfied in all cases that the continuance of the certificate is not conducive to the public good.

All certificates of naturalisation granted since the commencement of the war to enemy subjects are required to be brought up for review, and revoked in the absence of special circumstances.

The Act, in addition to other minor amendments, makes further provision as to the status of women in respect of nationality. It is provided that where a certificate of naturalisation is revoked, the Secretary of State may direct that the wife and children, as well as the grantee, shall become aliens, but in the absence of such direction, and in the absence of a special declaration by the wife of a desire to abandon British nationality, the wife and minor children will, notwithstanding the revo-

[1] For a fuller account of this Act by Mr. H. Bertram Cox, Solicitor to the Inland Revenue, see *Journ. Comp. Leg.*, 3rd series, vol. i., pp. 42–57.

cation of the certificate, remain British subjects. It is also provided that the British born wife of an enemy alien may make a declaration that she desires to resume British nationality, and the Secretary of State is empowered in these circumstances to grant her a certificate of naturalisation.

Land Drainage (c. 17).—This Act empowers the Board of Agriculture and Fisheries to constitute separate drainage districts, alter the boundaries of drainage areas, define the limits of any commission of sewers, and confer on any drainage authority additional powers of levying rates and borrowing. The drainage districts are, by virtue of the principal Act (the Land Drainage Act, 1861), under the superintendence of Drainage Boards which exercise within their districts all the powers formerly exercised by commissioners of sewers. A highway authority or an urban or rural district council may, with the consent of the Minister of Health, contribute to the maintenance of the drainage works of a drainage authority, and navigation authorities may, with the consent of the Minister of Agriculture, after consultation with the Board of Trade, accept the transfer to them of drainage undertakings.

Further provision is made for the improvement of the drainage of agricultural land ; and perhaps the chief features of the Act are that the initiative may now be taken by the Minister instead of by the proprietors only, and that an unopposed order does not require parliamentary sanction.

The following Acts were also passed.

Overseas Trade Department (Secretary).—C. 3 provides for the creation of a new Department known as "The Overseas Trade Department," presided over by a Secretary appointed jointly by the Board of Trade and the Secretary of State for Foreign Affairs, and having the status of an Under-Secretary of State.

Army Annual.—C. 6, besides other minor amendments of the Army Act, contains a provision enabling women enrolled for employment by the Army Council to be billeted in the same manner as soldiers.

Workmen's Compensation.—C. 8 removes an anomaly of the law whereby an employer could avoid the obligation to pay compensation if the injured person was employed by him under an illegal contract, *e.g.* a contract involving employment during prohibited hours.

Special provision is made also by the **Workmen's Compensation (Silicosis) Act** (c. 14), for the payment of compensation to workmen who are employed in industries or processes involving exposure to silica dust, and who, as the result of their employment, contract the disease known as fibroid phthisis, or silicosis of the lungs.

Horse Breeding.—C. 13 provides for the licensing of stallions, with power to the Board of Agriculture and Fisheries to refuse a licence in the case of stallions unsuitable for use, and prohibits the travelling or exhibition for the purposes of service of stallions not duly licensed.

Finance (c. 15).—This Act should perhaps be reckoned as a war measure, inasmuch as the additional taxation imposed really arose from war necessities. Besides continuing all existing duties, provision is made for increasing considerably the duties on spirits, beer, tobacco, sugar and matches. The rate of income tax is raised from 5*s.* to 6*s.* in the pound, and excess profits duty is continued at the rate of 80 per cent. The stamp duties on Bills of Exchange and Promissory Notes are also raised.

Maternity and Child Welfare.—C. 29 provides for the establishment of maternity and child welfare committees of county, borough, and urban district councils with power to make arrangements for attendance to the health of expectant mothers and nursing mothers, and of children under five years old not being educated in a school recognised by the Board of Education.

Trade Boards (c. 32).—The chief effect of this Act is to improve the machinery for setting up new trade boards under the Trade Boards Act, 1909, and for the fixing of minimum rates of wages by trade boards when established. Under the Act of 1909 a new trade could only be brought under that Act by means of a provisional order confirmed by Parliament, while under the new Act this result can be obtained by means of a special order made by the Minister of Labour.

Midwives.—C. 43 makes provision for the revision by the Privy Council, at the instance of the Central Midwives Board, of its constitution, and gives power to the Board to frame rules deciding the conditions under which midwives may be suspended from practice or authorising the county or borough council, as the case may be, to take proceedings against a midwife. A midwife who has been removed from the roll for midwives may be prohibited by the Board from attending a birth in any other capacity. Provision is also made for the calling in by a midwife, in case of emergency, of a certified medical practitioner, and for the payment of his fee by the local supervising authority.

Affiliation Orders (Increase of Maximum Payment).—C. 49 increases the maximum weekly amount which may be awarded under an affiliation order from 5*s.* to 10*s.*

Petroleum (Production).—C. 52 provides that no person other than a person acting on behalf of His Majesty or holding a licence under the Act shall search or bore for or get petroleum within the United Kingdom, and if any person, in contravention of the Act, gets petroleum, he is liable to forfeit a sum equal to three times the value of the petroleum gotten. The granting of licences is vested in the Minister of Munitions, who is himself empowered to sink shafts, and do other things for the purpose of ascertaining the position of workings of mines or abandoned mines through or near which it is proposed to sink boreholes or shafts for the searching or getting of petroleum.

School Teachers (Superannuation).—C. 55 established a system of non-contributory state pensions for school teachers. Unlike the Act of 1898 the present Act applies not only to teachers in public elementary schools, but to all teachers in all places of education (other than Universities) in receipt of a grant out of public moneys, and also to teachers in certain non-state-aided schools if they are not conducted for private profit and satisfy certain other conditions.

Minor Acts passed during the session include Acts relating to the time for marriages in Ireland (c. 2), Trustee Savings Banks (c. 4), Postal Rates (c. 10), Deputy Lieutenants' qualifications (c. 19), pensions of officers in institutions for the mentally defective (c. 33), Queen Anne's Bounty (loans to incumbents) (c. 42), and Police Pensions (c. 51).

(3) The Education Act (c. 39) and the Education (Scotland) Act (c. 48).

An Education Bill for England and Wales was introduced by Mr. Fisher on August 10, 1917, but it was not proceeded with owing to some objections which were expressed to the phraseology rather than the substance of certain clauses. A second Bill, which in most respects was identical with the previous Bill, was accordingly introduced on February 25, 1918. It was read a second time in the House of Commons after two days' debate on March 18, and committed to a Committee of the whole House. It passed its third reading on July 16, and, after consideration by the House of Lords, received the royal assent on August 8.

Most of the proposals of the Bill involved reforms the necessity of which had long been recognised by persons interested in education, and the most striking novelty, the establishment of compulsory attendance at continuation schools, was the outcome of the deliberations of a Departmental Committee set up early in the war under the chairmanship of Mr. Herbert Lewis, the Parliamentary Secretary to the Board. The Bill adopted, with very few alterations, the recommendations of that Committee.

Before dealing with the provisions of the Act, attention should be called to a feature in it which, though not unprecedented, is novel in an Act of this importance. The Act becomes operative on the day appointed by the Board of Education, and though it provides that certain provisions may not become operative before a certain date, it fixes no date before which it must become operative. The Board of Education, however, issued an Order fixing the day on which the Act received the royal assent as the appointed day for the greater part of the sections, though the sections included in this Order were not the more important; and since that date almost the whole of the Bill has been brought into operation except the sections dealing with continuation schools, and certain other sections which were required by statute to be postponed to the end of the war.

The Bill deals with six main subjects, and with a great number of miscellaneous but isolated matters.

The main subjects are (*a*) the establishment of a national system of education; (*b*) attendance at elementary schools; (*c*) attendance at continuation schools; (*d*) employment of children; (*e*) the relations of denominational schools to the national system; (*f*) finance.

(*a*) **The Establishment of a National System of Education.**—These sections of the Act belong rather to the realm of administration than of law. They impose on every Local Educational Authority a duty to prepare a scheme for the organisation of education throughout its area, and to submit it to the Board of Education for approval, after inviting the observations of parents and other persons interested in their localities. The general design of the Scheme is that all grades of education should be available to all persons capable of profiting thereby. The Public Elementary School ceases to be a place in which the instruction is solely elementary, and the Bill foreshadows an organisation of central schools available for the purpose of giving advanced instruction to the older and "more intelligent" children in attendance at public elementary schools. The limitation of the rate for higher education is abolished,

and co-operation between authorities for higher and authorities for elementary education encouraged. The sharpness of the line drawn between elementary and higher education constituted a defect in the Education Act, 1902, and these sections represent the first legislative attempt to "blur" that line.

(*b*) **Attendance at Elementary Schools.**—The Act abolishes the statutory right of the child to work half-time in a factory or workshop at the age of twelve, and the whole apparatus of exemptions below the age of fourteen is based on proficiency or beneficial employment and establishes a uniform age of compulsory attendance ending at the age of fourteen. An Authority is, however, empowered by by-law to raise the leaving age till fifteen. A useful minor provision requires a child, on attaining the age of exemption, to remain in school till the end of the term. Under certain conditions the age for first attendance at school may be raised from five to six. The Act also makes an attempt to secure some educational supervision over private elementary schools, some of which are believed to be grossly inefficient.

(*c*) **Compulsory Attendance at Continuation Schools.**—This part of the Act is frankly futurist. The schools did not exist when the Bill was drafted, and it will probably be some years before the system is in full operation. The canvas is accordingly painted with a very broad brush. A young person is between the ages of fourteen and eighteen required to attend continuation schools selected by the Local Education Authority for 320 hours in each year, unless he is under satisfactory instruction in some other manner. For a period of seven years after the appointed day the obligation is not to extend to young persons between sixteen and eighteen, and during the same period the hours of attendance may be reduced to 280. The hours of a continuation school must be between 8 a.m. and 7 p.m. Holidays must not be interrupted by attendance, and the employer must afford time off for the purpose of attendance, and also such further time as may be necessary in order to secure that the young person shall be in a fit mental and bodily condition to receive full benefit from the education given. The suspicion that the schools might be used for purposes of industrial exploitation was met by a provision that a young person should not be requested to attend a school in connection with his place of employment. There was an interesting discussion in the House of Commons on the question whether the young person, his parent or his employer, should be punished in case of non-attendance, and the solution was that all three under certain conditions might be punished.

(*d*) **Employment of Children.**—The Act of course forbids the employment of children during school hours, but it is chiefly concerned with their employment outside school hours. It had long been recognised that excessive employment outside school hours was one of the greatest impediments to efficient education. The background of these provisions is the Employment of Children Act, 1903, and not the Education Acts. In addition to a general section reinforcing existing legislation by enabling the Local Education Authority to interfere in any individual case of excessive employment, there is a general provision limiting employment absolutely. A child under twelve may not be employed at all, unless the Authority make by-laws enabling him to be employed by his parent. No child may be employed for more than two hours on Sunday. No child may be employed before the close of school hours unless the by-

laws allow one hour's employment before nine in the morning. If this is allowed the child may not work for more than one hour in the afternoon. On days which are not school days, there must be no employment between 9 p.m. and 8 a.m. Street trading by children is prohibited, and the enforcement of the Act transferred to Local Education Authorities. The Act also deals with the difficult question of the employment of theatrical children and transfers the duty of licensing them from the Magistrates to the Local Education Authority.

(*e*) **The Relation of Denominational Schools to the National System.**—It was no part of the scheme of the Act to alter the dual system established by the Education Act, 1902, and the rights of denominational schools are expressly safeguarded. There are, however, some amendments in detail. The power of the Local Education Authority to appoint teachers is slightly extended. A provision is inserted to prevent the disorganisation of education by the sudden closure of a voluntary school, and the grouping of several schools of the same denomination under one management is facilitated.

(*f*) **Finance.**—The provisions on this subject are of the most far-reaching importance. All the statutory grants for education are swept away, and with one exception all grants will in future be made in accordance with Regulations laid before Parliament. The exception is the deficiency grant, the principle of which is that if the total ordinary grants received by an Authority for elementary or higher education, as the case may be, are less than half its expenditure, the deficiency is made up by a deficiency grant. This provision is an extension of a principle recognised in some earlier Acts such as the Mental Deficiency Act, whereby a duty imposed by the Act on an Authority did not attach to the Authority unless the Authority received from the State a certain proportion of its expenditure. The Act also contains provisions for bringing to the notice of Parliament any case in which an Authority is fined by the Board of Education to a substantial amount for a failure to perform its duties.

(*g*) **Miscellaneous.**—The system of medical inspection, established by the Act of 1907, is extended to places of higher education. Medical treatment is rendered compulsory in elementary schools and authorised in places of higher education. Local Education Authorities are charged with the duty of providing for the education of the physically defective. Nursery schools for children between two and five living in unfavourable conditions are encouraged. Local Education Authorities are empowered to initiate prosecutions for cruelty to children.

Very wide powers are given to provide for the education of children who live in places remote from educational facilities, or who, for other reasons, are unable to enjoy the ordinary provision for education ; and an equally wide section enables Authorities to provide facilities for the social and physical training of children and young persons. In each case the breadth of the section is modified by the requirement that the Board's sanction shall be required to any action under it. The last remnant of fees in public elementary schools was abolished. The power of Education Authorities to assist the employment of young persons was extended. A new system of compulsory purchase modelled on that contained in the Housing, Town Planning, etc., Act, 1909, was established ; and technical sections dealing with public inquiries, the expenses of educational conferences, the finance of the Central Welsh

Board, and certain provisions of the Charitable Trusts Acts, were passed. Of more importance were the provisions inserted for establishing an educational census; the absurdity of the situation whereby the Board of Education had no means of ascertaining the extent of the educational provision throughout the country had long been recognised. Lastly, the venerable remnants of the law of mortmain, so far as it affects disposition for educational purposes, were abolished without regret, and without remark; the existing law had long been riddled by exceptions, and was full of anomalies and absurdities, which rendered the settlement of property on educational trusts a most hazardous and dangerous operation.

The Education (Scotland) Act.—C. 48, was passed a little later than the English Act, and, although similar in its objects, proceeds on rather different lines.

The Act provides for the setting up of an education authority for each county and for each of the scheduled burghs, namely: Aberdeen, Dundee, Edinburgh, Glasgow and Leith; for the division of the areas into suitable electoral divisions, and, for the purposes of elections within these electoral divisions, for the application of the principle of the single transferable vote.

Each Authority must submit to the Department for approval a scheme or schemes for the constitution of School Management Committees for each school or groups of schools in their area. Membership of a School Management Committee is not confined to members of the Education Authority. The Authority, parents, teachers, etc., all obtain representation. Except for certain regulations and restrictions and certain powers and duties which must be retained by the Education Authority, a School Management Committee has all the powers and duties of the Authority in regard to the management and supervision of the school or group of schools.

The remaining provisions of the Act are similar in character to the corresponding provisions of the English Act.

2. ISLE OF MAN.

[*Contributed by* L. S. KNEALE, ESQ.]

During the year 1918, the Manx Legislature passed eight Acts.

1. The Judicature Amendment Act, 1918, makes an alteration in the Judicial Bench of the Island. Up to the present there have been three judges; henceforth there are to be only two. In order to create a Court of Appeal, provision is made for the creation of an additional Judge of the High Court, who is to sit only in the Court of Appeal. The new judge is to be appointed by His Majesty, and is to be a member of the English Bar and a K.C., and is to hold office at the pleasure of His Majesty, but not for a longer period than one year; provided always that the holder of the office may be reappointed. The Court of Appeal, therefore, will after this consist of the Governor, the Appeal Judge, and two Manx Judges; but the Manx Judge whose decision is under appeal, is not to sit on the hearing of the appeal from his decision.

2. The Income-tax Act, 1918, introduced an income-tax for the first time into the Isle of Man. Income is not to be taxed, as in England,

at the source, but every party made liable by the Act to the payment of income-tax has to make a return once a year to an Assessor, who thereupon fixes the amount payable. Provision is made for settling disputes between the Assessor and payers of income-tax. The rate of the tax is to be fixed each year by resolution of the Tynwald Court.

3. The Registration of Business Names Act 1918, the Companies (Particulars as to Directors) Act 1918, and the Companies (Foreign Interests) Act 1918, extend to the Isle of Man the provisions of 6 and 7 Geo. V c. 58, 7 and 8 Geo. V c. 28, and 7 and 8 Geo. V c. 18.

4. The House of Keys Election Act, 1918, extends the life of the House of Keys (the lower Branch of the Manx Legislature) for one year from November 1918, when the period for which it was elected would have expired.

5. The Educational (Aid Grant) Act, 1918, which is to be construed as one with the Education Acts 1892 to 1903, provides that, commencing with the financial year 1917 to 1918, an Aid Grant shall be annually paid out of the money to be provided by Tynwald.

6. The Brewers' Act Amendment Act, 1918, made an alteration in the duties payable in respect of beer and the mode of calculating such duties.

3. JERSEY.

[*Contributed by the* VISCOUNT OF JERSEY, E. T. NICOLLE, ESQ.]

On July 19, 1918, an Order in Council confirmed a law on Weights and Liquid Measures, whereby as from January 1, 1919, all weights, scales, weighing instruments and liquid measures for use in trade must be according to English standards and regulations. The metric system may be used, as in England. The Jersey Act is based on the English Legislation on this subject.

II. NORTH AMERICA.

1. DOMINION OF CANADA.

[*Contributed by* F. H. GISBORNE, ESQ., K.C., I.S.O.]

A general election was held on December 17, 1917, a coalition Government having been formed by the Conservative Prime Minister, Sir Robert Borden, consisting of a number of the existing Conservative Cabinet Ministers and of leading Liberals from the various Provinces of Canada, and this Government was sustained by a large majority. The Parliament which opened on March 18, 1918, was, therefore, of quite a unique character in the history of the Dominion, there being 153 Union Government supporters, and an Opposition of 81, of whom 61 members were from the Province of Quebec, led by the previous Liberal leader, Sir Wilfrid Laurier. The session was exceptionally short, as it closed on May 24. An early closing of the session was particularly desired to enable the Prime Minister to attend the Imperial Conference in London. The legislation is contained in 52 Public Acts and 44 Private.

Financial Legislation.—The Business Profits War Tax Act was continued in force for another year with an amendment imposing a tax of 25 per cent. of profits exceeding 10 per cent. per annum on the capital employed in businesses with a capital of not less than $25,000, and under $50,000.

The Customs Tariff is amended, and duties are imposed on chicory, coffee, tea, cigars, cigarettes and tobacco, certain beverages, and on cinematograph films.

The Income War Tax Act is amended, principally in the interest of increasing the tax.

The Inland Revenue Act is amended by increasing the tax on tobacco, cigars and cigarettes, and requiring a licence for growing tobacco, except in the case of small growers for their own use.

The Special War Revenue Act was also amended, increasing the tax on steamer berths and railway parlour car seats, imposing stamp duties on matches and playing-cards, and a tax on automobiles, jewelry, gramophones, talking machines and records, mechanical piano and organ players and records, and an excise tax for each day on which cinematograph films are used.

The expenditure authorised includes $500,000,000 for war purposes, the same amount as was granted in 1917, for the public service of Canada $178,299,950 for the fiscal year ending March 31, 1919, and a supplementary vote for the year ending March 31, 1918, of $14,034,274, as against $179,968,249 and $9,127,777 voted in 1917.

Special sums are also authorised as bounties on zinc and zinc ores mined in Canada, and for increasing the organisation and co-ordination of Provincial Government employment offices.

The remaining public statutes, apart from those principally of an amendatory character, are as follows:

Civil Service.—Act No. 12, relating to the Civil Service of Canada, is an amendment and consolidation of the existing law, and includes very important changes, the object of the legislation being to transfer the patronage connected with positions in the public service from the Government to three Civil Service Commissioners, whose salaries are made payable by statute and whose tenure of office is during good behaviour. In 1908, under the Liberal Government, legislation was passed with the object of putting the patronage connected with what is called the Inside Service, that is to say, the employees in the Departments at Ottawa, under the control of Civil Service Commissioners; but the present legislation includes practically all the employees in the public service, the only exceptions being the Deputy Ministers and the employees on Government railways and vessels, who are still appointed by the Government. Appointments are to be made after competitive examination, certain limited exceptions being made in the case of professional men and experts. Even these, however, are appointed by the Commission. Promotions are also under the control of the Commissioners. The salaries and grading for the Inside Service are fixed by statute, but the Commission are charged with preparing classification and salary schedules for the various branches of the Outside Service, which schedules go into force upon being approved by the Government and by resolution passed by both Houses of Parliament.

Daylight Saving.—A so-called Daylight Saving Act (c. 2) has been passed, under which the time may be advanced one hour by the Governor

in Council for a prescribed period in each year. This Act was at once put into force, and seems to have met with universal approval except in the case of farmers, many of whom are very much opposed to it, and allege that it interferes with the arrangements between themselves and the farm labourers.

Workmen's Compensation.—An Act (c. 15) has been passed providing the same compensation in the case of employees of the Crown who are killed or suffer injuries, as is provided by the various Provinces with respect to employees of companies and individuals.

Criminal Law.—The Criminal Code has been amended (c. 16) by imposing a penalty upon any person who, by immorality, drunkenness or any other form of vice in the home of a child, is likely to corrupt the child. Prosecution in such cases can, however, only be brought by officers of Juvenile Courts, organised societies for the protection of children, or by authority of the Attorney-General of the Province. The punishment for theft of motor-cars has been increased, that crime having become very prevalent, and some amendments were made to facilitate the suppression of gambling. It may be mentioned here that, under special powers conferred upon the Government, a regulation has been passed which has the effect of forbidding betting on horse-races during the war.

Woman Suffrage.—An Act (c. 10) was passed conferring the electoral franchise upon women who are British subjects of the full age of twenty-one years and upwards, and possessing the qualifications which would entitle a male person to vote. A married woman or an unmarried daughter living with her father or mother is to be deemed to have the necessary qualifications as to property or income if her husband or either parent is so qualified. For the purposes of the Act a woman is deemed to be a British subject if she was born a British subject and is unmarried, or is married to a British subject, and has not become a subject of any foreign power; or if she has herself personally been naturalised, and has not since become a subject of any foreign power; or if she has become a British subject by marriage or by the naturalisation as a British subject of her parent while she was a minor, and in either case has done nothing, other than in the second case by marriage, to forfeit her status as a British subject, and presents to the officials preparing the voters' lists a certificate of a judge under the seal of the Court certifying that such female person is of the full age of twenty-one years, has resided in Canada a sufficient length of time, and is possessed of all the requirements necessary to entitle her if unmarried to become naturalised as a British subject, and that she has taken the oath of allegiance; or, if she is married to an alien friend, that she was at the time of such marriage a British subject by birth, and has not herself sworn allegiance to any foreign power.

Employment Exchanges.—An Act (c. 11) was passed to enable the Minister of Labour to aid and encourage the organisation and co-ordination of provincial employment offices, and to employ for this purpose an amount not exceeding $50,000 for the first year, $100,000 for the second year, and $150,000 for each succeeding year. The money is to be allotted to the Governments of the various provinces in the proportion which their expenditure for the maintenance of employment offices bears to the total expenditure of all the provinces for such purpose, provided it does not exceed one-half of such amount. Payments are to

be made only after agreements are entered into between the Minister of Labour and the Province fixing the terms and conditions and the purposes for which the money is to be used.

Industrial Arbitration.—The Industrial Disputes Investigation Act (c. 87) is amended, amongst other things, so as to give the Minister of Labour greater powers with respect to ordering boards of conciliation and investigation.

Resettlement of Fighting Men.—A special Department has been created by c. 42 called the Department of Soldiers' Civil Re-establishment. It is anticipated that large numbers of returned soldiers belonging to various portions of the Empire, and to the King's Allies in the present war, will settle in Canada after the war, so that special provision is made to assist in establishing them in civil life.

Statistics.—An Act (c. 43) was passed revising and consolidating the Canadian law relating to statistics with a view to preventing overlapping and inconsistencies in connection with the various statistics collected and published by the Dominion Government. The Dominion Bureau of Statistics, presided over by the Dominion Statistician, forms a part of the Department of Trade and Commerce, and this Bureau is also charged with the preparation of the decennial and other censuses of Canada.

2. ALBERTA.[1]

The session was notable for the presence of two women members, and it is claimed to have been "the first occasion in the history of the British Empire upon which women have occupied seats in a British Legislature."

Seed Grain.—Act No. 10 gives municipal districts power to borrow money under by-law, on the guarantee of the province, for the purchase of seed grain to be supplied to resident owners, and tenants with the written consent of the owners, on patented lands, not to exceed $300.00 in value for each quarter section, taking notes therefor payable on demand, with interest at a rate not to exceed that paid by the municipal district, and lien on the crop, and on the land subject to taxes and first mortgages.

Act No. 21 is on the lines of the Act of 1917 (*Review of Legislation*, 1917, p. 24), and authorises loans to persons outside municipalities.

Dairymen.—By No. 44 no person shall operate a milk or cream testing apparatus after the first day of June, 1918, without first securing a licence, the fee for which shall be $2.00. The applicant, before being given such licence, may be required to pass a satisfactory examination and prove by actual demonstration that he is competent and qualified to properly use a cream-tester.

Highways.—All highways, by c. 14, are divided into three classes: (*a*) main highways; (*b*) district highways; (*c*) local highways. Main highways are those of prime importance by reason of being trunk channels of communication between the main cities and towns of the Province or with main travelled roads situate outside and adjoining the Province. District highways are those of less general but of considerable local importance. Local highways are all such highways as are not classified as main or district highways.

[1] Based upon the synopsis of Acts prepared by J. D. Hunt, Esq., K.C., Clerk of the Legislative Council.

Maps are to be kept by the responsible Minister showing the different roads. If the municipalities fail to maintain them as required, he has authority to act in their stead.

Education.—By c. 19 various amendments are effected in the School Ordinance.

The expression "resident ratepayer" is enlarged to include the husband, wife, son, daughter or sister of any resident ratepayer who is of the full age of twenty-one years and resides in the same house as the resident ratepayer.

Provision is made for the taking of a vote of the ratepayers of two or more contiguous districts and any portion or portions of any other contiguous district or districts upon the question of a union as a consolidated school district, and for the adjustment of assets and liabilities where a portion of a district is placed in a consolidated district. The definition of adequate school accommodation is extended to include accommodation for pupils between the ages of six and seven.

Mentally deficients incapable of responding to class instruction may be excluded from school attendance on the recommendation of the superintendent or an inspector.

A salary of $70.00 per month, or $840.00 per year, is fixed as the minimum of the teacher of an ungraded school, that is, a school having but one teacher, except where the inspector certifies that in his opinion it would be a hardship on the district to pay such salary, when the Minister may authorise a less salary to be paid.

Amendments are also made in the Ordinances for financing the schools by rates and provincial grants. The requirements as to school attendance are modified so that a parent or guardian is not liable for a penalty in respect of a child not attending school, if there be no public or separate school, which the child has the right to attend, within two and one-half miles from the nearest point of the quarter section or lesser portion of land upon which the child resides by the nearest highway from such child's residence, if he is under ten years of age, or within three and one-half miles if he is over that age.

Hospitals.—C. 15 provides for the division of the Province into hospital districts to be established upon petition from each contributing council therein or from twenty-five ratepayers in each included area. A board is formed with power to erect a hospital and levy a tax of at least ten cents.

The board shall hold at least six meetings during the year, and shall have power to make and adopt rules for the transaction of business and to provide for the appointment of committees for the purpose of carrying out the work entrusted to it. Members of the board may be paid an allowance of 10 cents per mile, one way, and $4.00 per day for attending meetings.

The Lieutenant-Governor in Council may make regulations covering the construction, equipment, maintenance, inspection, supervision, control and management, and the auditing and investigation of accounts and affairs of municipal hospitals, and such other matter or matters as may arise out of the operation of the Act.

Small Debts.—By c. 11 every Justice of the Peace is given jurisdiction in the judicial district or sub-district in which he resides to try any action of debt, except one to which the Crown is a party or one in which the title to land is involved, where the amount claimed or the balance

claimed does not exceed $50.00; provided that no justice shall try any action under the Act unless the defendant or some one of the defendants resides or carries on business in the judicial district or subdistrict in which the justice resides.

Hail Insurance.—C. 2 makes the usual kind of arrangement for insurance against hail under the auspices of a board constituted for the province.

Mines.—For the purpose of granting certificates the Lieutenant-Governor in Council, by c. 38, may appoint a Board of Examiners having jurisdiction over the Province, the board to consist of the Chief Inspector, or a district inspector appointed by him, two managers, and two working miners.

Boilers.—The old Act and amendments have been repealed and an entirely new Act substituted in c. 22. It consists of some sixty-one sections, chiefly of a technical nature. The chief changes include the licensing of portable traction and semi portable boilers and the giving of a number plate to the owner each year. The issue of such licence is not to be taken as evidence that the boiler is in condition to be safely operated. There are also new provisions governing the inspection and licensing of any compressed air apparatus with a maximum pressure of over 75 pounds to the square inch.

Official Guardian.—By c. 28 amendments are made in the official Guardian Act. "Missing person" is defined as a person who cannot be found and whose place of abode is unascertainable and has continued to be unascertainable for a period of two years.

Provision is made whereby the Official Guardian shall be served with notice of every application made to a Court in respect of an infant, missing person or convict, or of the estate of such persons respectively, and from the time of such service he shall be guardian *ad litem* of the infant or trustee of the property of the missing person unless and until the Court otherwise orders, and no such application shall be proceeded with until the Official Guardian is represented or has expressed his intention of not being represented.

Venereal Disease.—C. 50 makes provision for the examination by the Provincial Medical Health Officer of any person under arrest or in custody, charged with an offence under the Criminal Code, or committed to gaol thereunder. If such person is infected with venereal disease the Health Officer shall give such directions for detention, isolation, prevention of infection and treatment as may be deemed proper, and it shall be the duty of every constable, gaoler, warden and superintendent having the care of such infected person to see that such directions are carried out.

The Provincial Health Officer, or a legally qualified medical practitioner appointed by him in writing, may, upon the request or with the consent in writing of the council of any municipal district, enter any house or premises within such district for the purpose of making inquiry and examination with respect to the health of any person therein, and may cause any person found infected with venereal disease to be removed to a hospital or other proper place. Every hospital receiving aid from the province under the Hospital Ordinance shall provide accommodation for such infected person.

Penalties are provided for the publication of unlawful advertisements and other offences named in the Act.

Towns.—Numerous amendments are made in the Town Act by c. 46.

The hospital charge for a person sent in by the Town Council is raised from 75 cents per day to $1.00.

The council is given power by resolution to make a grant to the Red Cross Fund or to the War Veterans' Association.

The four years' limit for the imposition of a business tax has been removed and amendments added by which, subject to the approval of the Minister of Education, the council may fix a minimum tax of $4.00 to be paid by any person assessed, and may require that every male resident of the district who is twenty-one years of age, has resided therein for one month or over, and has not been assessed shall pay an annual tax of $4.00 for school purposes, to be collected at any time after the first day of January in each year. The tax is payable within three days after demand, and in case of default levy may be made by distress as for other taxes. It shall be the duty of any employer to furnish the secretary-treasurer of the town on request with the names of all persons in his employ, and the secretary-treasurer may require such employer to pay the tax due by any of his employees, the amount to be deducted from the wages or salary of such employee.

Villages.—Various amendments in the Village Act are made by c. 47. The village council may by resolution allow a rebate, not exceeding 10 per cent., by way of discount for payment of taxes on or before a certain date. Power is given to control, regulate and license the businesses of livery stables, laundries, money-lenders, automobile drivers, real estate dealers and agents, butcher shops or stalls, skating, roller or curling rinks.

Municipal Districts.—Municipal districts are now to take the place of rural municipalities by c. 49. Various new powers and arrangements are made in the course of the change.

The council is given power to make a grant to the Red Cross Fund or to the War Veterans' Association.

The council is given power to pass a by-law to acquire a gravel-pit to be worked by and for the purposes of the municipal district.

In case proper steps have not been taken by the owner or occupant of land to exterminate gophers [a burrowing animal] in pursuance of any by-law passed in that behalf, any person or persons authorised by the council may enter upon said land and take such steps as may be necessary to exterminate the gophers thereon, and the amount expended in their work may be recovered from the owner or occupant of the land in the same manner as municipal taxes; provided that the amount so expended annually shall not exceed 2½ cents per acre. Not later than the tenth day of January in each year a special report shall be made to the Minister stating the amount spent by the municipal district during the previous year for the destruction of gophers.

Subdivision of Land.—In case any piece of land has been subdivided, and it appears to the Board of Public Utility Commissioners that such subdivision is not required for building purposes, the board by c. 45 amending the principal Act may ascertain what parcels within the area have been sold, and take such steps as may be deemed expedient to arrange a purchase of such parcels by the person owning the remaining or largest portion of the area, or the exchange of certain parcels for others so as to render possible the convenient cultivation of the remainder of the subdivision.

Soldiers' Homes Exemptions.—By c. 40 a soldier is defined to be any

man or woman who has served in the fighting forces of the Crown raised either in Canada, Great Britain or by the Allies. No soldier shall become at any time liable in respect of home property to the payment of any tax which, when it first falls due, falls due or would but for this Act fall due :

(*a*) After December 31, 1917, and before the expiry of one year after the declaration of peace by Great Britain ; and (*b*) from himself, while a soldier.

" Home property " is land with the buildings and improvements thereon which is occupied by a soldier or his wife or any of his ascendants or descendants dependent upon him for support at the time such soldier became a soldier within the meaning of this Act.

It must consist of not more than four lots according to a plan of subdivision if in a city, town or village, and such lots must be contiguous, or of not more than 320 acres if outside a city, town or village, and if composed of more than one parcel, such parcels must be situate within a circle of nine miles' radius. It must be listed on a home property register kept by a municipality in accordance with the provisions of this Act.

If any person, being a soldier, has died since the beginning of the war and before the coming into force of this Act, and if any soldier dies while entitled to exemption, his legal representatives and his estate shall, in favour of his widow or any of his ascendants or descendants then dependent upon him for support, have the same exemption as such soldier would have had until the expiry of one year after the declaration of peace by Great Britain.

Workmen's Compensation.—The administration of a new Act (c. 5) dealing with workmen's compensation is placed under the control of a Board of three members. The Compensation Fund is raised by a compulsory assessment upon employers, and the Government may make advances to it upon interest at 6 per cent.

Increased assessments may be made on an employer where a greater number of accidents has happened than in the opinion of the board ought to have happened.

If a workman is disabled for ten days or more he shall be paid compensation from the day of the accident. If he is disabled for less than ten days he shall be paid for and from the fourth day after the accident. Where death results from an injury the amount of compensation, not exceeding $2,500.00 in the whole, shall be—

(*a*) Expenses of the burial, not exceeding $75.00 ;

(*b*) Where the widow or invalid husband is the sole dependent, a monthly payment of $20.00 ;

(*c*) To a widow or an invalid widower having one or more children, a monthly payment of $20.00 with an additional monthly payment of $5.00 for each child under sixteen years of age, to be increased upon the death of the widow or invalid widower to $10.00, not exceeding in the whole $40.00 per month ;

(*d*) Where the only dependants are children, $10.00 per month to each child under sixteen, not exceeding in the whole $40.00 per month ; provided that where there are more than four children the payments may be proportionate ;

(*e*) Where the dependants are other than herein mentioned, a sum proportionate to the pecuniary loss occasioned, to be determined by the board, but not exceeding to the parents or parent $20.00 per month

and not exceeding in the whole $30.00 per month, such payment to continue only so long as in the opinion of the board the workman, had he lived, would have continued to contribute to the support of the dependants.

Where permanent total disability results from the injury, the amount of compensation shall be a weekly payment of $10.00, or where a workman has a child or children dependent upon his earnings, $12.00 per week, but not exceeding in either case a total of $2,500.00.

Soldiers' Relief.—By an Act of 1916 no person could bring any action against any soldier or against his wife or any dependent member of his family for the enforcement of the payment of any debt, liability or obligation "incurred before the passing of this Act." The words "incurred before the passing of this Act" have been struck out by c. 25 and the following substituted therefor: "before the date upon which such person became a soldier within the meaning of this Act." As the Act stood such action could not be brought until one year after the termination of the war or after the discharge of the soldier, whichever happened first. The words "one year" and the words "after the termination of the said state of war" have been struck out of the section and the following substituted therefor: "two years" and "after the declaration of peace by Great Britain." A similar change is made in the section giving any rights or remedies or relief over against the party for whose benefit the Relief Act was passed.

Great War Next-of-kin Associations—C. 12 enables any ten or more of the women relatives of soldiers to organise an association upon filing with the Provincial Secretary a memorandum of association duly executed, upon receipt of which the Provincial Secretary will give the association a certificate of incorporation.

The constitution, rules and regulations governing the administration of the association shall be formulated at a general meeting of the members.

The corporation is given power to hold land, borrow money for the purchasing of a site for association buildings, the erection of a building and the necessary furnishing thereof.

Provincial Arms.—C. 18 forbids the use of the Provincial Arms without authority.

Statute Law Amendment.—C. 4 deals with the variety of subjects under a general Act for the amendment of the law.

All moneys received under the Motor Vehicles Act are to be spent solely on roads and bridges as the Minister of Public Works may deem expedient.

Where at the time of the death of a married man intestate with respect to his homestead, his wife is living apart from her husband under circumstances disentitling her to alimony, no such life estate shall rest in such wife, nor shall she take any benefit under the Act.

Legislative Assembly.—By c. 37 amending the Legislative Assembly Act, any member of the Legislative Assembly serving on a commission or committee, appointed by the Legislature or by the Lieutenant-Governor in Council, may be paid for travelling expenses such sum as the Lieutenant-Governor in Council may deem proper.

Each member elected under the provisions of the Alberta Military Representation Act shall be entitled to the money actually paid by him for transportation and for sleeping accommodation on steamer and

train and to an additional allowance of $6.00 per day during the time actually spent in making the journey from the place where he was on military service at the time of his election to Edmonton, and to like sums for his return journey, provided he makes a solemn declaration to the effect that he intends to make and is on the point of making such return journey.

Amusements Tax.—C. 13 provides for an amusements tax on the lines of English legislation, with an additional provision that, where admission is given by pass or complimentary ticket, a tax shall be payable at the highest rate charged for the performance to which admission is granted.

Mine-owners' Tax.—Every mine-owner is required by c. 7 to keep an accurate account of the number of tons of coal actually removed from his mine premises during the month of June 1918, and during each month thereafter, and shall forward to the Minister monthly before July 15, 1918, and each month thereafter a statement of his account for the previous month.

Before the first day of August 1918, and before the first day of each month thereafter each miner shall forward to the Minister an amount equal to five cents per ton on the coal removed from his mine premises during the month with reference to which his last preceding statement is or should be made.

Export of Liquor.—C. 8 requires that every person who carries on the trade of brewer, distiller, compounder or manufacturer of liquor within the Province and every other person who has or keeps liquor for shipment or export to or sale in any other part of Canada or a foreign country, and every person who in Alberta sells or ships liquor to be delivered to any point outside of Alberta, and every person who has or keeps any liquor heretofore acquired or which may hereafter be acquired for any of the aforesaid purposes, shall forthwith after the passing of this Act, or upon acquiring or obtaining any liquor for the purposes aforesaid, report to the Attorney-General and give and furnish him with the particular location and site of the place of business used by such person, with a detailed statement of all kinds and brands of liquor and the quantity of each in his possession.

3. BRITISH COLUMBIA.

[*Contributed by* E. C. MAYERS, ESQ.]

Acts passed—105; Public—102; Private—3.

The session was not remarkable for legislation of a new or constructive character. The great majority of the statutes were amending Acts.

The group of statutes dealing with finance, however, vividly draws the attention to the inherent evils in the present system of provincial and municipal government.

Railways.—The assumption of responsibility by the Province for the financial affairs of railway projects, has resulted in the acquisition by the Province of the railway known as the Pacific Great Eastern Railway. The Province, therefore, has had to meet the guarantee of the payment of the obligations of the railway company, and to complete the construction of the line (c. 66).

By c. 61 authority is given for the payment of £132,960 sterling, being the amount of the bonds of the Nakusp and Slocan Railway Company, which had been guaranteed by the Province.

By c. 31 authority is conferred to pay to the Grand Trunk Pacific Railway Company the sum of $200,000, being the amount agreed to be paid by the Province to the railway company in respect of the steel bridge across the Fraser River at Fort George.

In order to provide for these heavy liabilities, it has been necessary, by c. 49, to confer authority on the Executive to borrow $4,000,000 by the issue of debentures or treasury notes, or otherwise on the security of the Province.

The British Columbia Loan Act, 1916, and the British Columbia Loan Act, 1917, have been amended verbally, so as to make it clear that interest at 5 per cent. per annum shall be payable in respect of all securities issued for moneys borrowed by the Province (cc. 50 and 51).

Taxation.—In order to raise the money required for these large expenditures the net of the tax-gatherer has been cast even more widely than in previous years.

By the Taxation Act Amendment Act, c. 89, the businesses of canning, curing and dry-salting salmon have been made subject to an income-tax or a tax on the pack of fish, whichever tax shall be greater in amount. The same fate has befallen the business of manufacturing whale-oil and the products and by-products of whales.

By s. 24, every bank carrying on business within the Province is compelled to pay annually $3,000 for its chief office within the Province, and $500 for each branch or agency.

By s. 15, all owners of mines, other than coal or gold-mines, are taxed on their income or on the output of the mine, whichever tax shall prove to be the greater.

All persons owning or working gold-mines are taxable on income from the mine (s. 25).

In addition to all other taxes, every person owning or working a mine in the Province has to pay a tax upon all iron ore extracted from the mine.

The considerable increases in rate brought into force in 1917 by the Taxation Act Amendment Act of that year are left untouched.

The income-tax payer is not allowed to deduct from the amount of taxable income any expenditure which, in the opinion of the Minister, is an expenditure of a capital nature, nor directors' fees, nor salaries of partners or of persons holding office as directors, president, vice-president or general managers of any company, except in the case of such officers who reside in the Province, nor any allowance for depreciation except such as may be allowed by the Minister in his discretion, nor any amount expended in the development of a mine except at the good pleasure of the Minister (ss. 11, 12, 13 and 14).

Municipal Finance.—The deplorable condition to which municipal government has reduced the cities is exemplified by four statutes passed in order to deal with the financial situation which has arisen in the principal cities of the Province.

By c. 63 the City of New Westminster is empowered to issue bonds to an amount not exceeding $500,000.00 for the purpose of obtaining money to repay the sum of $446,500.00 due from the city on treasury certificates maturing on August 16, 1918.

By cc. 96 and 105 the City of Victoria has obtained two relief Acts: the first gives power to the city to renew or extend the payment of treasury certificates issued by the city and maturing on March 1, 1918.

By the second statute a similar power is conferred in respect of treasury certificates maturing on February 1, 1919, By the remaining parts of the Act, statutory authority is given to carry out an involved and experimental scheme for dealing with the dangerous problem of arrears of taxes, which have mounted to a very formidable sum. Provision has been made for the appointment of a Commission to endeavour to devise some plan for the settlement of the assessments for local improvements and to fix future taxation.

By c. 104 the Legislature has taken from the City of Vancouver the power of deciding whether or not it will institute a sale of land for the arrears of taxes due thereon, and has made it compulsory upon the Council in every year from 1919 to 1928 to provide by by-law for the sale of lands for arrears of taxes, and at the same time the Act has provided for the payment of arrears of taxes by instalments.

The ultimate result of municipal government as at present exemplified, is shown in two statutes, cc. 82 and 83, passed in respect of South Vancouver, which is frankly insolvent. The first statute gives power to the Executive Council to abolish the municipal offices and to appoint in their stead a Commissioner to exercise all the powers at present exercised by the Municipal Council.

The Government is given authority to guarantee the existing obligations of the Corporation, and to advance money to the Corporation.

By the second Act, c. 83, the Lieutenant-Governor in Council is empowered to borrow $1,000,000 to be used for the purpose of extricating the Corporation of the District of South Vancouver from the slough of insolvency into which it has plunged.

A commissioner has been duly appointed under the former Act.

Again, by c. 100 it has been necessary to confer power on the Executive Council to guarantee the payment of the debentures issued by the West Nicomen Dyking District to an amount not exceeding $90,000.00.

Closely connected with the subject of finance comes the subject of state control of industry.

By c. 11 power is given to the Executive Council to pay a bounty on pig-iron manufactured within the Province.

By c. 16 further power is given to the Executive Council to guarantee the payment of debentures of the French's Complex Ore Reduction Company, Limited, to the additional amount of $25,000.00.

Social Legislation.—By c. 40 after March 31, 1919, an eight-hour-day has been introduced in regard to all coke-ovens, smelters, concentrators or mineral separation plants; in regard to coal mines by c. 54, and in regard to metalliferous mines by c. 55.

By c. 56, a board has been set up for determining the minimum wages of women in all occupations, with power to make compulsory orders on employers, and to vary the same *ad lib.*

Seed Grain.—The Minister of Agriculture is authorised by c. 75 to provide seed-grain to farmers and settlers in the Province against their promises to pay, and by c. 76 it is rendered a penal offence to grow what is called a seed crop without having first obtained a permit from the Minister allowing such seed crop to be grown. By the curious infelicity of language which so peculiarly characterises our statutes, what is called

a " seed " crop, appears to be in reality what is usually known as " root " crops, together with such innocent crops as cabbage, cauliflower, carrots, parsnips and celery, so that it appears to be the case that any innocent householder who devotes his back garden to the cultivation of cauliflowers is liable to a penalty of $100 or thirty days' imprisonment, and to have his much-desired results treated as noxious weeds.

Children.—*L'enfant terrible* has not escaped the notice of the legislators of this Province, and by c. 20 juvenile courts have been set up and entrusted to the matronly care of women judges; while by c. 36 provision is made for the apprehension of neglected children, and by c. 35 any boy guilty of incorrigible or vicious conduct is liable to be committed to an industrial school, though apparently it is not considered necessary to provide for girls.

Land Settlement.—By the Land Settlement and Development Act Amendment Act, 1918, c. 42, the Legislature has emulated the most advanced land legislation of the Australasian Colonies.

By s. 10 the Land Settlement Board is empowered to establish settlement areas and *in camera* place a value upon the lands within the area. The board then is authorised to give notice to each owner of land within the area informing him of the value placed by the board upon his land, and calling upon him either to agree to sell his land at the fixed value, or to make and execute improvements annually on the land in such manner and to such extent as the board may prescribe. The owner is entitled, by notice to the board, to place a different and higher value on the land, but in such case the value so given is to be that upon which his taxation will be assessed; and further, if he fails to make the improvements demanded, a further tax of five per centum (5 per cent.) per annum on the appraised value or the owner's value, is levied upon him. Moreover, the board is empowered to purchase compulsorily any land within the settlement area; the owner is given an appeal to the Supreme or County Court from the value at which the board intimates its intention of purchasing.

The war has given rise to the usual crop of remedial measures:

Miners' Certificates.—By c. 4 the former Acts in relief of miners who have enlisted are repealed, and a comprehensive enactment passed, providing for the continued validity of free miners' certificates, and the relief of miners who have enlisted from compliance with the provisions of the Mineral Act and the Placer Mining Act, with regard to performing assessment work.

Estates of Missing Persons.—By c. 22 provision is made for the appointment of curators of the estates of missing persons.

Allotment Cultivation.—By c. 58 municipal councils are empowered to occupy compulsorily plots of land within the municipal boundaries, and either to cultivate such plots themselves or to let the same to those who will conduct agricultural operations upon them.

Land Settlement.—By c. 80 the Executive Council is empowered to utilise crown lands and to purchase lands in private ownership, for the purpose of granting or leasing the same to any soldier or community of soldiers, or to convey the same to the Dominion of Canada for the purpose of enabling the Soldiers Settlement Board to settle soldiers in British Columbia.

Timber.—By c. 2 the Minister of Lands is given power to enter upon any lands for the purpose of cutting and removing the timber of the spruce-

tree to be used in making aeroplanes, at a fixed rate of compensation to be payable to the owner of the timber.

Factories.—By c. 28 the Factories Act is amended so as to provide for the efficient ventilation of printing establishments.

Game.—The Game Act is amended by c. 30, in the direction of affording further protection to small birds.

Fire Inquests.—The British Columbia Fire Insurance Act is amended by c. 37, so far as regards the subject of inquiry and report into fires occurring in the Province.

Lunacy.—The Lunacy Act is amended by c. 52 so as to enable the Attorney-General, who is *ex officio* the committee of the lunatic not otherwise provided, to secure the payment or delivery to him of any moneys or property available for the maintenance of the lunatic. The Attorney-General enters into an obligation, binding upon the Province, to repay or restore such money or property if occasion should arise.

Nurses.—Provision is made for the registration of hospital nurses, and their incorporation, by c. 65.

Sheriffs.—A new method of remunerating sheriffs is introduced by c. 79, in the way of direct payment by the Crown and the abolition of the system of allowing the Sheriff to retain the fees and charges to which he has hitherto been entitled by rules of Court.

Drainage.—By c. 57 power is conferred upon municipalities to enter into agreements with one another for the construction and maintenance of joint drains and sewers, and also for improving or diverting highways, without the necessity of obtaining the approval of the Lieutenant-Governor in Council.

County Court Jurisdiction.—The subject of procedure has received attention in the Supreme Court Act Amendment Act, c. 21, conferring powers on judges of county courts, as local judges of the Supreme Court, to transact all business under the Administration Act, the Bills of Sale Act and certain portions of the Companies Act.

By a decision in the Supreme Court of Canada, it was held that, notwithstanding that the County Court exercises the same jurisdiction as the Supreme Court up to a definite pecuniary limit, yet the jurisdiction of the two Courts was not concurrent so as to permit an appeal to the Supreme Court of Canada from the decision of the Court of Appeal of the Province, in an action which had originated in the County Court. The County Courts Act Amendment Act, c. 19, therefore has provided in express words that the jurisdiction conferred on County Courts by this Act shall in every case be concurrent with the jurisdiction of the Supreme Court in the like case.

Public Authorities Protection.—By c. 48 the Public Authorities Protection Act is introduced into the Province with an extension of the time for suing from six months to one year.

Registration of Mortgages.—By the Assignment of Book Accounts Act Amendment Act, c. 6, no assignment of book debts created by a body corporate and contained in a trust deed or debentures is to be registered under the principal Act. But by the Companies Act Amendment Act, c. 14, the method of registration of mortgages and charges effected by bodies corporate and comprising chattels and choses in action is to be effected by registering the instrument with the Registrar of Joint Stock Companies together with statutory particulars which are to be forwarded by the Registrar of Joint Stock Companies to the appropriate

Registries under the Bills of Sale Act and the Assignment of Book Accounts Act. Whereas, in the case of assignments of choses in action made by bodies corporate otherwise than in trust deeds or debentures, these are to be registered by filing the instrument with the registrar under the Assignment of Book Accounts Act, who forwards the statutory particulars to the Registrar of Joint Stock Companies. In view of the extreme complexity of the provisions with regard to registration the Legislature has enacted that notwithstanding the provisions of subsection 2 of section 102 of the Companies Act, which invalidated any mortgage or charge not registered within twenty-one days with the Registrar of Joint Stock Companies, yet no mortgage which is duly registered under the Land Registry Act, the Bills of Sale Act or the Assignment of Book Accounts Act, shall become void by reason of failure to register under the Companies Act.

Corporations.—In consequence of the language used by the Judicial Committee in the case of the *Bonanza Creek Gold Mining Company* [1916] 1 A. C. 566, the Corporations' Capacity Act, c. 18, provides that every Corporation heretofore or hereafter created within the Province by or under any Act of the Legislature, shall have and shall be deemed to have always had, capacity to effect outside the Province its objects or purposes, and to accept powers and rights in respect thereof from any lawful authority outside the Province, except where the operations of a corporation are confined to the Province by some express provision in its charter or an Act of the Legislature. By s. 4 an express provision in the charter of a corporation which confines its operations to the Province may be abrogated in the same manner as the objects or purposes of the corporation may by law be altered.

Wills.—An amendment has been made to the Wills Act by c. 101, providing that the will of any person of the full age of twenty-one years, who since August 4, 1914, or who hereafter joins for service in the war any of the naval or military forces of His Majesty or of any Power being at the time an ally of His Majesty, and who having so joined has been engaged or engages on active service in connection with the said war either at home or abroad, and who has died or shall hereafter die during the continuance of the war or within twelve months thereafter, shall be sufficient to dispose of his real and personal property if in writing signed by the testator or some other person in his presence, and by his direction, without the necessity for the presence, attestation or subscription of any witness. Apparently the provision intended to meet the strictness of construction which confines the benefit of the Act to a soldier killed in expeditions, but a reference to the age of twenty-one years would seem to reinforce the decision of Mr. Justice Younger in *in re Wernher* [1918] 1 Ch. 339, that no will made by an infant soldier is valid. In England an act was immediately passed to remedy the effect of this decision, but apparently such a course has not commended itself to the Provincial Legislature.

4. NEW BRUNSWICK.

One hundred and eight Acts were passed during the session, of which sixty-one were public and general in character.

Aircraft.—C. 3 authorises municipalities to present aeroplanes to the Government and to raise the cost by debenture bonds.

Halifax Explosion.—C. 4 ratifies the assessments made by numerous municipalities in the Provinces to cover the sums granted to the city of Halifax in aid of the suffering caused by the explosion on December 6, 1917.

Uniformity of Law.—The appointment of Commissioners by the various Provinces to work towards uniformity of legislation has been noted in this *Journal* (3rd series, vol. i. p. 143). Chapter 5 authorises the constitution of a Provincial Board of three members whose duty it is—

"to examine the following subjects: incorporation of companies, insurance assignments for the benefit of creditors and the discharge of debtors, fraud on creditors, extra-provincial judgments and their enforcement, partnership, sales and transfer, mortgage and pledge of property, real and personal, the execution and probate of wills, and other subjects upon which uniformity is desirable; to meet annually in conference with the Commissioners appointed for the same purpose by any other Province, and with the Canadian Bar Association, where expedient, concerning the matters above mentioned, and concerning the drafting of uniform laws to be submitted for approval and adoption by the Legislatures of the several Provinces, and to join with said other Commissioners, and where expedient with said Association, in such measures as may be deemed most expedient to advance the purposes hereinbefore mentioned."

The Commissioners are not paid, but are allowed their travelling expenses.

Highways.—C. 8 consolidates the law on the subject of highways throughout the Province, which are divided into Trunk Roads and Branch Roads. Their general care is under the control of the Provincial Road Engineer and his assistants, with Branch Road Supervisors to exercise local supervision. The finance is supplied by a road-tax upon property and all males between the ages of twenty-one and sixty years. Special provision is made for winter roads laid out between November 1 and April 1 in the following year, and the winter-road master may summon the inhabitants to co-operate in breaking open the roads in winter. The bridges of the Province are under the supervision of structural superintendents.

Forest Fires.—Another consolidating Act is c. 13, which contains the whole law on the precautions to be taken to prevent forest fires, and the liability of persons and railway companies for damages caused by their ravages.

Forestry.—By c. 14 a Provincial Forestry Advisory Commission is appointed to enforce all statutes, rules and regulations relating to forestry, hunting and fishing, the protection of forests from fires, the construction and maintenance of permanent improvements and reafforestation.

Stallions.—The law on the inspection and registration of stallions is consolidated in c. 23.

Audits.—The law on the subject of the auditing of public accounts

is now incorporated in c. 28, repealing previous legislation. A Comptroller-General under the direction of a Training Board is substituted for the Auditor-General.

Public Health.—The law relating to public health is consolidated in c. 36.

Workmen's Compensation.—The whole law on the subject of workmen's compensation is incorporated in c. 37, divided into two parts, dealing with the ordinary manual labourers and certain special cases. The Act is administered by a Board consisting of three Commissioners, who have jurisdiction " to inquire into, hear and determine all matters and questions of fact and law " with the powers of the Supreme Court to compel the attendance of witnesses and production of documents. An appeal lies to the appellate division of the Supreme Court. The system of insurance is one of employers' organisations controlled by the Province.

Education.—C. 41 constitutes a Vocational Education Board " to investigate the need for and to aid in the introduction of vocational education," which is defined to mean—

" any education, the controlling purpose of which it is to fit for profitable employment, and shall include industrial, agricultural and commercial education, and education in the fisheries and home economics."

5. NOVA SCOTIA.

[*Contributed by* F. F. MATHERS, ESQ., *Deputy Attorney-General.*]

Reckoning of Time.—C. 1 embodies the existing law in regard to the reckoning of time, namely, as four hours behind Greenwich mean solar time, but authorises the Governor in Council in any year to prescribe daylight saving time so called for any period in such year between March 31 and November 1.

Woman Suffrage.—C. 2 is important in that it confers the franchise on women, the qualification for men and women being the same. In other respects the Act is merely a consolidation of existing legislation.

Venereal Disease.—There is no important new provision in the Public Health Act (c. 6) except in regard to Venereal Disease, in respect of which provision is made for: (*a*) The keeping of records by medical practitioners and by hospitals, public institutions and places of detention, and the making of reports to the medical health officer of the district. (*b*) Persons refusing treatment for the disease. (*c*) Examination of persons committed to jails, etc., on conviction for an offence; (*d*) Laboratory diagnosis. (*e*) Free examination and treatment. (*f*) Preserving secrecy with regard to knowledge obtained by reason of the provisions of the Act. (*g*) Preventing all persons except legally qualified medical practitioners from attending upon or prescribing for or supplying or offering to supply any drug, medicine, or treatment known to be used exclusively or chiefly for treatment of the disease to or for a person suffering therefrom for the purpose of the alleviation or cure of the disease, provided that a registered pharmaceutical chemist may dispense to a patient of a legally qualified medical practitioner the prescription of such practitioner. (*h*) Preventing the advertising of drugs, medicines, appliances and instruments for the alleviation or cure of the disease. (*i*) Imposing a penalty on persons doing or suffering any

act likely to infect others. (*j*) The making of regulations by the Provincial Health Officer for the prevention, treatment and cure of the disease.

Water Power.—By c. 13 the property in, and the right to the use of, all the water at any time in any water-course and of all lands under such water notwithstanding any grant, deed or transfer heretofore made, is declared to have been and to be vested in the Crown for ever in right of the Province, and every person is prohibited from diverting or appropriating the water in the water-course except under the provisions of the Act. The expression "Water-Course" includes all water-courses or sources of water supply, whether usually containing water or not, and all streams, rivers, lakes, ponds, creeks, springs, ravines, gulches and all water power. Provision is made for the protection of the rights of persons who establish to the satisfaction of the Water Power Commission, appointed under c. 8, Acts of 1914, that they or persons claiming under or through them prior to the Act, developed the water power or used water for other purposes when they had a legal right to do so, but such persons may be required by the Commissioners to develop the power, and the price to be charged for the power might be fixed by the Commissioners, and conditions may be imposed.

A number of other acts were passed, but they were merely consolidations of existing statutes, or were substantive Acts or Amendments of existing Acts, and they are not of such general interest as to call for the giving of a summary thereof.

6. ONTARIO.

[*Contributed by the late* A. H. F. Lefroy, Esq., K.C.]

Woman Suffrage.—C. 3 is the Ontario Election Act, 1918, which confers the franchise upon women, declaring entitled to be entered on the list of voters—

> Every man and every woman who (*a*) is a British subject by birth or naturalisation; (*b*) is not disqualified under the Ontario Election Act or otherwise by law prohibited from voting; (*c*) has resided in Canada for the twelve months next preceding the day of nomination; and (*d*) is in good faith on the last-mentioned day and has been for the three months next preceding the same, a resident of and domiciled in the electoral district in which the polling subdivision in which he or she so resides is situate.

General Purchasing Agent.—C. 7 is the General Purchasing Agents' Act, and provides that there shall be an officer of the Treasury Department, to be known as the General Purchasing Agent, who shall be appointed by the Lieutenant-Governor in Council, who is to make regulations prescribing his duties. Subject to any regulations so made it is to be the duty of the General Purchasing Agent to purchase for all governmental departments of the province all stationery, furniture, supplies and equipment required to be furnished by the Province.

Telephones.—C. 31 is an Act respecting Telephone Systems. It enacts, *inter alia*, that—

> The corporation of any municipality may establish and carry on a telephone business as a public utility, and for that purpose shall have and may

exercise all the powers possessed by a municipal corporation under the Public Utilities Act and under this Act,

and it provides for the establishment and extension of such local municipal telephone systems. It also contains provisions for the government of all telephone systems, and as to the powers of the Ontario Railway and Municipal Board in respect to the same.

Land Transfer.—C. 38 is an Act respecting Surveys and Plans of Land in or near Urban Municipalities, which seems an invasion of private rights, though it is stated to be in line with recent English legislation, and does not, in reality, seriously affect private owners of land in " urban zones." It provides (s. 6) that no plan of survey and subdivision of land within a city, town, village or " urban zone " shall be registered unless approved, under the provisions of the Act, by the Council of such city, town or village, or by the Ontario Railway and Municipal Board, and, also, if the land be in an urban zone " by the Council of any adjoining city, town, or village." By s. 2 " urban zone " is to mean :

In the case of a city the area within five miles of said city, but exclusive of any part of another city; in the case of a town the area within three miles of said town, but exclusive of any part of a city or other town ; and in the case of a village the area within three miles of such village, exclusive of any part of a city or town or other village.

It also provides for " joint urban zones " consisting of an area included within the urban zones of two or more municipalities. It also provides (s. 4) for urban municipalities varying their urban zones with the approval of the Ontario Railway and Municipal Board. By s. 11 :

In the case of a tract of land within a city, town or village, or in an urban zone, which has not been subdivided according to a plan approved under this Act, no part of it which abuts upon a highway of a less width than 66 feet, or which is situate within a distance of 33 feet from the centre line of such highway, shall be severed from said tract and sold under a description by metes and bounds or otherwise without the approval of the board, and no deed of conveyance or mortgage in fee of such part of said tract shall be registered without the approval of the board. . . .

It is further provided (s. 13) that the Council of a city, town or village may appoint a Commission to be known as its " Town Planning Commission," consisting of the head of the municipality and six ratepayers appointed by the Council ; and this Commission shall then " have and exercise all the powers and discharge all the duties by this Act vested in and exercisable by the Council of such city, town or village."

Land Cultivation.—Another invasion of private rights of ownership is c. 39, An Act respecting the Cultivation of Vacant Land, authorising Councils of cities, towns and villages to pass by-laws for entering upon, holding or using, or granting permits to other persons so to do, any vacant land in the municipality during the continuance of the war, and for selling and disposing of the produce thereof. Before doing so, however, notice is to be given to the owner, and a day fixed " for hearing any objections which he may desire to make."

7. PRINCE EDWARD ISLAND.

Twenty-eight Acts were passed during the year, of which nine were public in character.

Liquor Licensing.—C. 1 is a "total prohibition" Act establishing a system of sale of alcohol for "mechanical, pharmaceutical, manufacturing or scientific purposes."

Uniformity of Law.—"To facilitate the carrying on of business in Canada, it is desirable that there should be uniformity of provincial legislation on subjects relating thereto," so c. 3 constitutes a Board of three Commissioners to promote that object similar to the New Brunswick Board (mentioned above, p. 25).

Town Planning.—A Planning and Development Board consisting of three members is constituted by c. 7, with a view to secure, in connection with the laying out and development of land, "the best economic use of the land and proper sanitary conditions, amenity and conveniences, including suitable provision for traffic."

8. QUEBEC.

[*Contributed by* MR. JUSTICE FABRE SURVEYER.]

Acts passed—145.

The Statutes of 1918 contain very few enactments of extra-territorial interest.

Assistance to Halifax Sufferers.—C. 2 authorises a subscription of $100,000 for the assistance of the sufferers from the explosion which has laid waste the city of Halifax and its neighbourhood.

Highways.—By c. 10 every municipality traversed by the Montreal-Quebec road is bound to pay to the Provincial Treasurer $1,000 for every mile of road constructed within its boundaries.

By c. 11 the Minister of Roads may by declaring a road a main communication road, force the municipality through which it passes to repair, improve or maintain it or do so at the expense of such municipality.

Quebec Streams Commission.—Several Acts (c. 12, 13, 14, 15, 16) grant to this commission—created in 1903—additional powers to acquire and deal with certain property, erect storage dams, etc.

Department of Municipal Affairs.—By c. 20 this department is created to be presided over by a Minister who will have charge throughout the Province of over-seeing the administration, and of putting into operation the laws respecting the municipal system. His duties formerly formed part of those of the Provincial Secretary.

Liquor Licences.—C. 23, assented to February 9, 1919, enacted as follows:

> Notwithstanding any law to the contrary, on and after the first day of May 1919, no licence shall be issued for the sale of intoxicating liquors in the Province, save and except for the sale of wine for sacramental purposes, and of intoxicating liquors for medicinal, mechanical, manufacturing or industrial purposes.

This law was superseded by other provisions before it came into operation.

Succession Duties.—By c. 24 several amendments to the existing laws are introduced, the most important being that whereby a legacy to a joint owner of an undivided portion of property is assimilated to a *donatio mortis causa* and taxable as such.

School Commissions.—The Catholic and Protestant Board of School Commissioners of Montreal are authorised to borrow for the purpose of building, repairing and improving schools, the former, $3,000,000, the latter $900,000.

Judiciary.—By c. 45 it is enacted as follows:

> Subject to legislative authority of Canada, the Chief Justice or the judge appointed by the proper authority to perform the duties of the Chief Justice, as the case may be, may on the application of one party refer the hearing and decision of any case, matter or thing pending before the Superior Court or one of the judges thereof to an Advocate who has practised for the last fifteen years. The decision given by him shall be the judgment of the Court or the judge, as the case may be, and shall have the same force and effect.

No fee is provided for the barrister so acting in a judicial capacity, and no application of the law is recorded.

Commercial Travellers.—Members of certain organised associations of commercial travellers are exempted from acting as jurors.

Weekly Day of Rest.—By c. 53 it is enacted that the Lieutenant-Governor in Council may order that "every person who keeps, directs, owns or manages a hotel, restaurant or club as proprietor, tenant or occupant, shall be bound to give his employees one day rest each week." The fine imposed may be not more than $50.00 and costs, and, in default of payment, imprisonment for not more than one month may be ordered.

Civil Engineers.—By c. 57 the law protecting the profession of civil engineers against intruders is made stricter.

Water-courses and Floating of Timber.—Cc. 68, 69 and 70 contain several provisions concerning the use of streams for the public of timber and the protection of public interest when works on streams are undertaken.

Holding of Real Estate by Corporations.—Corporations may acquire, otherwise than for their personal requirements, mortgage and deal in real estate by complying with the provisions of c. 77.

Appeals to the Privy Council.—The amount in controversy required to allow a party to appeal *de plano* to the Privy Council is by c. 78 raised from $5,000 to $12,000.

Theatrical Performances.—C. 80 obliges parties who give or organise paying theatrical performances to disclose and advertise the same, title of the work announced or represented and the name of the author thereof.

9. SASKATCHEWAN.

[*Contributed by* R. W. SHANNON, ESQ., K.C.]

Acts passed—Public 95; Private—10.

Venereal Diseases.—A person suffering from a venereal disease, within three days of his becoming aware or suspecting that he is so suffering, must consult, in accordance with No. 13, a physician and remain

under his treatment until a certificate of cure is obtained. The Commissioner of Public Health is notified by physicians of all cases in course of treatment. Local boards of health and medical health officers are instructed to institute such measures for the treatment and care of affected persons as will tend to prevent the spread of the disease, and provision is also made for the examination and treatment of persons under arrest or in custody. Power is conferred on the Commissioner, subject to the approval of the Lieutenant-Governor in Council, to make *inter alia* regulations regarding methods and remedies for the treatment, alleviation and cure of venereal diseases. Persons other than physicians are prohibited from attending upon or prescribing any drug for a person suffering from venereal disease, and penalties are imposed on persons advertising any article as an alleviation or cure.

Devolution of Estates.—The Devolution of Estates Act (No. 20) is a revision and consolidation containing certain new provisions as to the powers of the personal representatives in whom both real and personal property are vested, all such property, so far as it is not disposed of by deed, will, contract or other effectual disposition, to be administered, dealt with and distributed as if it were undisposed of personalty.

Wills.—An amendment to the Wills Act (No. 21) provides that a soldier in actual military service or a mariner or seaman at sea may dispose of both real and personal property though under the age of twenty-one years.

Married Woman's Property.—No. 22 amends the Married Woman's Property Act by the insertion of a section providing for the summary disposition of questions between husband and wife concerning title to and possession of property.

Trustees.—Certain new sections have been placed in the Trustee Act by No. 23. The new provisions confer power on the Court of King's Bench to appoint new trustees, either in substitution for or in addition to other trustees, and to issue vesting orders as to land and other property and rights. These additions to the Act are taken for the most part from the Imperial Statute 56 & 57 Victoria, chapter 53.

Insurance.—No. 53 enumerates the securities in which an insurance company may invest its surplus funds.

Union Hospitals.—No. 44, which amends the Union Hospital Act, provides for the establishment of hospital districts, the apportionment of costs and of annual expenditures between the municipalities concerned, the levying of hospital taxes and the issue of debentures by hospital boards.

Housing in Urban Municipalities.—No. 45 empowers the Lieutenant-Governor in Council to authorise the provincial treasurer to apply to the Dominion Government for loans for the purpose of relieving congestion in cities and towns by promoting the erection of dwelling-houses for returned members of His Majesty's military and naval forces. The provincial treasurer has authority to lend the money so obtained to cities and towns upon the security of the general revenues of the municipality, and under regulations to be approved by the Governor-General of Canada in Council.

Lunatics and their Estates.—By the Lunacy Act (No. 58), another new measure, the Court of King's Bench may make orders regarding the custody of lunatics, the management and administration of their estates, and the vesting of land and other rights. The Act consists

of 38 sections, and is largely taken from the Imperial Act 53 and 54 Victoria, c. 5.

Landlord and Tenant.—This measure (No. 79) codifies the statute law of England upon the subject, as it stood on July 15, 1870, in so far as that law is applicable to Saskatchewan, together with parts of certain Acts passed since that date. It also contains new provisions for dealing with overholding tenants.

Exemption of Wages from Attachment.—By No. 81 it is enacted that no debt due or accruing due to a mechanic, workman, labourer, servant, clerk or employee for wages or salary shall be liable to attachment unless the debt exceeds $75, and then only to the extent of the excess. When the debt is the wages or salary for a period of less than one month, then that part not liable to attachment is the sum which bears the same proportion to $75 as the period for which such wages or salary is due or accruing due bears to one month of four weeks.

Infants.—The Infants Act (No. 82) is a comprehensive enactment dealing with the custody of infants, administration of their real estate, dividends or infants stock, the appointment of guardians, their authority, the official guardian and other branches of the subject.

Imprisonment for Debt.—An Act respecting the Imperial Debtors Act of 1869 (No. 83) provides that, after the date when this Act comes into force, " The Debtors Act, 1869 " shall not be in force in Saskatchewan, but the passage of this Act does not affect in any way proceedings already taken or orders made.

Minimum Wage.—The minimum wage board, consisting of five members, two of whom shall be females, is appointed by an Act for fixing Standard Minimum Wages, Hours of Employment and Conditions of Labour for Females (No. 84). The board has authority to establish standards of minimum wages and, subject to the provisions of the Factory Act, to fix the hours of employees, and to declare what are proper sanitary conditions. To the bureau of labour is assigned the duty of determining whether employers are complying with the provisions of the Act, and of any order made by the board. The Act applies only to cities, but the board has power to extend its provisions to any other portion of the Province.

10. NEWFOUNDLAND.

[*Contributed by the* Hon. W. R. Warren, K.C., *Attorney-General.*]

Daylight Saving.—C. 1 provides for daylight-saving each year from the first Sunday in May until the first Sunday in October.

Legislature.—C. 2 provides that the life of the present General Assembly or Parliament shall be extended until April 30, 1919, and that no member should vacate his seat by the acceptance of an office of profit under the Crown.

Housing.—C. 3, amending the St. John's Municipal Act, enables the Municipal Council of the town of St. John's to appropriate land for the erection of workmen's dwellings.

Ministers.—The Salaries Act 1918, c. 5, provides for the payment of certain salaries including $3,000 a year to the Prime Minister, $3,000 a year to the Minister of Militia, and $2,000 a year to the Minister of Shipping.

The Weights and Measures Act 1918, c. 9, provides for the sale of wooden hoops for fish-casks and herring-barrels.

Statute Revision.—The Consolidation Acts 1916–18, c. 10, provide for the arrangement and publication of the Statutes of Newfoundland as consolidated under the Act of 1916. S. 2 enacts that a printed roll of the Consolidated Acts signed by the Governor, the Colonial Secretary, and the Attorney-General, shall be considered the original of all Acts. S. 5 provides that the Consolidated Statutes (Third Series) shall come into force by Proclamation. Ss. 6 and 7 refer to the repeal of certain Acts with a saving clause. S. 10 enacts that the consolidation may be cited as "Consolidated Statutes, c. ."

Finger-prints.—The Identification of Criminals Act 1918, c. 12, permits those in whose custody a person convicted of an indictable offence may be to take finger-prints and photographs of such person, and to use the necessary force, and to publish the results. S. 5 protects those acting under the Act.

Non-ferrous Metals.—S. 1 of the Non-ferrous Metal Industry Act, 1918, c. 14, prohibits dealing in non-ferrous metals without a licence from the Minister of Agriculture and Mines, and provides for the term and conditions of the licence. S. 2 provides for the inspection of the books of a licence and for the obtaining of information. S. 3 prescribes penalties. S. 4 permits the Minister of Agriculture and Mines to make rules for carrying the Act into effect. A schedule provides certain conditions. The Act is only in force during the continuance of the war and for five years after.

Crown Lands.—C. 15, amending the Crown Lands Act, provides that no timber for the building of any vessel over 100 tons gross tonnage, shall be cut on lands licensed for the cutting of timber. Penalties for the breach of any of the conditions in a licence may be recovered in the Supreme Court. S. 3 empowers the Governor in Council to reserve from lease or licence any minerals.

Ministry of Shipping.—C. 20 brings into existence a Department of Shipping with a Minister of Shipping as its head to control the shipping of the Colony.

Missing Vessels.—C. 23, entitled "The Missing Vessels (Reporting) Act," makes it obligatory upon the masters of vessels overdue to report to the Department of Marine and Fisheries as soon as they can communicate through a telegraph office.

Defence.—The Military Forces Act, c. 25, provides for the formation of a Home Defence Force. C. 26 is the Military Service Act providing for the raising of troops by conscription.

Prohibited Imports.—C. 30, known as the Imports and Exports (Restriction) Act, empowers the Governor in Council by proclamation to prohibit the importation or exportation of any goods either generally, or from or to any country or place or subject to such exceptions as may be specified in the Proclamation, and continues in force any proclamation in force at the termination of the war as if it had been made under this Act. The Act shall continue in operation for five years after the termination of the war.

Taxation.—C. 32 provides for the imposition of certain stamp duties on Customs Entries (20 cents) and telegraph messages (5 cents and 10 cents).

C. 33 amends the Act of 1905 providing for the collection of revenue by a tax on telegraphic cables.

The Income-tax Act.—C. 34 provides for the collection of a tax on incomes over $1,000 in the case of unmarried persons without dependants, or widows or widowers without dependents, and $2,000 in the case of all other persons. The normal tax is 5 per cent. upon the net income, and there are super-taxes upon all incomes over $6,000. The remainder of the Act provides the machinery for the collection of the tax.

11. BERMUDA.

[*Contributed by* Hon. Sir Reginald Gray, K.C.]

Acts passed—29.

Jury.—Act No. 8 authorised payment at the rate of 5*s.* per night to every juror on a criminal trial in which the jury is kept together at night, in addition to the usual day pay.

Daylight Saving.—Act No. 9 provided for the advance of local mean time for one hour from April 13 to September 15.

Parliament.—Act No. 12 reduces the period for the duration of the House of Assembly from seven years to five years.

Pensions.—Act No. 15 made some important changes in the local Civil Service Superannuation Acts, most of which are only of local interest, but members of the Bermuda Civil Service appointed to other offices out of Bermuda and subsequently becoming entitled to pension will receive from this Colony an allowance for the period of service here.

Supply Control.—Act No. 16 provides for the appointment of a Supply Control Board with power to issue licences regulating the importation or exportation of controlled articles.

War Service.—Act No. 17 extends retrospectively the provisions of s.s. 1 and 2 of Act of 1915, No. 38, to all public officers who joined any portion of His Majesty's Naval or Military Forces out of Bermuda during the war.

Shipping.—Act No. 18 amends the law as to agreements with the crews of ships registered in Bermuda, and repeals earlier enactments on the subject.

Prisons.—Act No. 19 provides for the temporary removal of prisoners for medical or surgical treatment which cannot conveniently be given within the prison limits.

Lunatics.—Under Act No. 24 the following relatives of lunatics or idiots admitted to the public asylum are liable to contribute to their maintenance to such extent as the Governor in Council shall determine: husband or wife, father or grandfather, mother if possessed of separate property, and children over eighteen years of age.

Probate.—Act No. 26 provides for the recognition in Bermuda of probates and letters of administration granted in the United Kingdom and in British possessions, with the view of obtaining the application to Bermuda of the benefits of the Imperial Statute entitled the Colonial Probates Act, 1892.

III. AUSTRALASIA.

1. COMMONWEALTH OF AUSTRALIA.

[*Contributed by* G. S. KNOWLES, ESQ.]

Public Acts passed—47.

The outstanding feature of the legislation for the year 1918 was the re-enactment, with important amendments, of the Commonwealth Electoral Law. There were also a large number of amending Acts passed during the year, some of which are of an important character, and many of which relate to conditions arising out of the war. The principal measures passed in connection with the war were the Amending War Precautions Act, the War Service Homes Act, and the Amending Australian Soldiers' Repatriation Act.

War Legislation.—The War Precautions Act (No. 37) extends the operation of the War Precautions Act, 1914–16, for a period of three months after the war, or till July 31, 1919, whichever period is the longer. Provision is also made for the Regulations, Orders and Proclamations already made under the Act, except in so far as they are amended or repealed, to continue in force for the extended period, or for such longer period as is provided in the regulation, order or proclamation.

The War Service Homes Act (No. 43) makes provision for homes for Australian soldiers and their female dependents. For the purposes of the Act "Australian soldier" means a person who, during the war, was:

(*a*) A member of the Naval or Military Forces of Australia employed on active service or on a ship of war; or

(*b*) A member of the Australian Nursing Service employed on active service outside Australia; or

(*c*) A member of the Naval or Military Forces or Nursing Service of one of the King's Dominions, who satisfies the Commissioner that prior to his enlistment or appointment he resided in Australia.

Persons eligible for homes under the Act are:

(*a*) Any Australian soldier who satisfies the Commissioner that he—(i) is married; or (ii) is about to marry; or (iii) has dependents for whom it is necessary for him to maintain a home; or

(*b*) The widow of an Australian soldier; or

(*c*) In the case of a deceased Australian soldier who was not married, his mother, provided that—(i) she is a widow and prior to the enlistment of the soldier was dependent upon him; or (ii) her husband is so incapacitated as to be unable to contribute materially to her support.

Provision is made for the appointment of a Commissioner who is responsible for the execution of the Act. The Commissioner is appointed for seven years, but is eligible for reappointment. He is empowered to acquire land for the erection of dwelling-houses and to acquire and erect dwelling-houses, but no dwelling-house acquired or erected, together with the cost of the land on which it is erected, is to cost more than £700.

The Commissioner may sell those homes to eligible persons on the rent purchase system. No deposit is required, but the purchaser is per-

mitted to occupy the house as a weekly tenant on paying the rental prescribed by the Act, and a certain sum in reduction of the purchase-money.

In addition to acquiring, erecting and selling homes, the Commissioner may also make an advance to any eligible person on the prescribed security to enable him :

(*a*) To erect a home on land owned by him ; (*b*) to purchase land and erect thereon a dwelling-house ; (*c*) to purchase a dwelling-house ; (*d*) to complete a partially erected dwelling-house ; (*e*) to enlarge a dwelling-house ; (*f*) to discharge any mortgage, charge or encumbrance on land held by him in fee-simple.

The amount of the advance may equal 90 per cent. of the value of the completed home in respect of which it is made, but it is not in any case to exceed £700.

Payment of purchase-money or repayment of an advance is to be made in equal weekly, fortnightly or monthly instalments and the period over which instalments are repayable is not to exceed : (*a*) in the case of a brick, stone or concrete house—37 years ; (*b*) in the case of a wooden or iron house—20 years ; and (*c*) in the case of a house built partly of brick, stone or concrete and partly of wood or iron—such period (not exceeding 37 years) as the Commissioner determines.

The necessary provisions are included in the Act to ensure the proper care and maintenance and insurance of the property during the period of repayment ; and to protect the Commissioner in case of non-payment of instalments or the insolvency of the purchaser or borrower.

There is also power in the Act to provide a dwelling-house for the use of any totally and permanently incapacitated soldier.

The Deceased Soldiers' Estates Act (No. 44) is of general application to members of the Commonwealth Military Forces, and to members of the Nursing Service appointed for service outside Australia, although passed in consequence of the war. The Act provides for the disposition of the military estate of any member of the Military Forces or Nursing Service who dies, or is killed on war service within three months from the date of discharge. By " military estate " is meant any pay, allowances or other money due to the member from the Commonwealth, and any personal property of the member in the control of the Military Authorities at the time of or after the death of the member. In the event of the death of the member his military estate is to be paid either to his personal representative, or to the person who, in the opinion of the Minister or other authority, is beneficially entitled thereto, or to a prescribed person. Such payment operates as a discharge to the Commonwealth in respect of the military estate. When the person beneficially entitled to the military estate of the member cannot be found, the proceeds of the estate may be paid into a fund for the benefit of members of the Military Forces or Nursing Service or their dependents. Medals and decorations of the member, unless bequeathed by will, are to be disposed of as approved by the Minister. The military estate of the member is free from attachment whilst it is in the hands of the Commonwealth.

The Australian Soldiers' Repatriation Act (No. 15) amends the Act of 1917 and widens the powers of the Minister and restricts those of the various repatriation bodies. The principal amendment is, however, directed to extending the classes of persons who are eligible to receive

assistance and benefits under the Act. In addition to the assistance and benefits provided by the 1917 Act, assistance and benefits under the Act may now be granted:

(*a*) To children of deceased or incapacitated soldiers whilst those children are physically or mentally incapable of contributing to their own support;

(*b*) In the form of free passages from abroad to Australia to the wives and children of soldiers—(i) who are unfit for service, and who have been returned, or whom it is proposed to return to Australia; or (ii) who at the termination of the war are awaiting return to Australia;

(*c*) To the motherless or neglected children of soldiers still on service;

(*d*) To the mothers of deceased or incapacitated soldiers—(i) who, prior to the enlistment of those soldiers, were dependent upon them; or (ii) whose husbands are incapable of supporting them; and

(*e*) To the fathers of deceased or incapacitated soldiers who, prior to the enlistment of those soldiers, were dependent upon them.

Electoral.—The Commonwealth Electoral Act (No. 27), as the long title states, consolidates and amends the electoral law of the Commonwealth. The principal amendments are with respect to the qualification for enrolment of persons who have served in the war, postal voting, and preferential voting at elections for the House of Representatives.

The Act provides that any person who has been a member of the Forces within the meaning of the Commonwealth Electoral (war-time) Act, 1917, and who has lived in Australia for six months continuously, and is a British subject, is entitled to be enrolled as an elector irrespective of his age.

Persons who, during polling day, will not be within ten miles of a polling-booth, or will be travelling under conditions which will preclude them from voting, or are too ill or infirm to attend at a polling-booth, or in the case of women are precluded by approaching maternity from attending to vote, are now entitled to vote by post. Certain safeguards have been inserted in connection with postal voting which were not in force under the previous system of postal voting which was repealed in 1911.

Provision is also made for preferential voting at elections for the House of Representatives. The elector marks his ballot-paper by placing the figure 1 in the square opposite the name of the candidate to whom he gives his first preference, and the figures 2, 3, 4 (and so on as the case requires) in the squares opposite the names of the other candidates in order to indicate his preference for them.

A preferential ballot-paper is informal if it has no vote marked on it, or it does not indicate the voter's first preference, or if necessary his contingent votes for all the remaining candidates. If there are only two candidates it is sufficient if the voter indicates the candidate for whom he votes.

At the scrutiny the first preference votes are counted first, and, if one candidate obtains an absolute majority, he is elected. If not, the first preference votes of the candidate obtaining the lowest number of votes are excluded, and each ballot-paper counted to him is counted to the candidate next in order of the voter's preference, and this process is repeated until one candidate has an absolute majority of votes.

Provision is also made to enable a person, who is entitled to be enrolled on the Roll for a particular Subdivision, and whose name has

been omitted or struck out owing to an error of an officer or mistake of fact, to vote at a polling place for the Subdivision.

The Commonwealth Franchise, which was previously contained in a separate measure, has now been incorporated in the main electoral law.

Commerce.—The Excise Act (No. 26), the Beer Excise Act (No. 31), the Distillation Act (No. 34) and the Spirits Act (No. 35) are chiefly designed to get rid of any provisions of the previous Acts no longer of any effect, and to facilitate the administration of the Acts which they respectively amend.

In addition the Excise Act, the Beer Excise Act and the Distillation Act prescribe new scales of licence fees and of amounts of security to be given by manufacturers.

The Distillation Act also provides that the provisions of the principal Act relating to the making and use of stills are not to apply to stills of a capacity not exceeding one gallon ; and the prohibition of the sale of spirits of a less strength than twenty-five degrees under proof is now removed.

Bounties.—The Apple Bounty Act (No. 21) provides for the payment to the grower of bounty upon the export from Australia of apples grown and evaporated in Australia, and sold to the Imperial Government for delivery between April 1 and August 31, 1918. The bounty is payable at the rate of 10 per cent. of the value of the evaporated apples, the value being taken to be *7d.* per pound. The total amount appropriated for the purposes of the bounty is £12,000.

The Iron and Steel Bounty Act (No. 36) has for its object the encouragement of the manufacture in Australia of black steel sheets and galvanised sheets. Bounty is payable for a period of five years after October 1, 1918, on the manufacture of those sheets from Australian iron ore and steel manufactured in Australia, or such imported sheet bar-steel as is authorised. The total amount appropriated for the bounty is £200,000, and the rate of bounty depends on the rate of freight. When freight is £2 10*s.* the rate is £1 10*s.* in the case of black steel sheets and £2 in the case of galvanised sheets, and as freight increases the rate is proportionately reduced.

Both this Act and the Apple Bounty Act contain the usual provisions as to quality of products, conditions of employment, returns, etc.

Financial.—The Income-tax Assessment Act (No. 18) is an amending Act, and is mainly directed towards preventing evasion of taxation and improving the general working of the principal Act. One of its most important provisions is, however, that which allows arrangements to be made with a State for the collection by the Commonwealth of State income-tax. The Act provides for exemption from taxation in two additional cases, namely, war pensions and the income of societies or associations (not carried on for the financial gain of individual members) established for the purpose of developing the agricultural, pastoral and industrial resources of Australia. The exemption of persons on active service has now been restricted to apply only during the period of service.

A company is now liable to pay income tax on so much of its assessable income as is distributed in respect of debentures or share stock payable to bearer, but if the holder of the debentures or share stock is not liable to furnish a return the amount of tax paid by the companies on the debentures or share stock of that person may be refunded to him.

Provision is made for the taxation of income from shares vested in the Public Trustee under the War Precautions Act 1914–16. Where the person who owned the shares was not an absentee the Public Trustee is liable to pay the tax, but where the person was an absentee the company in which the shares are held is liable. Under the 1915–16 Act deduction in respect of gifts to public charitable institutions was allowed only where the gifts exceeded £20 each, and in respect of contributions to patriotic funds only when the contributions exceeded £5 in the aggregate. The limitation is now renewed as regards gifts to patriotic funds and reduced to £5 in the case of gifts to public charitable institutions. A deduction may also be made in respect of improvements made under covenant by a lessee who has no tenant rights therein.

The special deductions are now, in the case of a person (other than a company, an absentee or unmarried person without dependents), £156, less £1 for every £3 by which the income exceeds £156; and, in the case of an unmarried person without dependents, £100, less £1 for every £5 by which the income exceeds £100.

Provision is also made for the deduction from income from property of a net loss on the business of a taxpayer.

A partnership is not now liable, except as regards a partner who is not a taxpayer, to pay income-tax in respect of the income of the partnership, but each partner is assessed in his individual capacity in respect of his share in the income of the partnership and his other income. Similarly a trustee is only liable to pay income-tax as trustee in respect of the income of a beneficiary who is under a legal disability or in respect of that part of the income of the trust estate to which no other person is for the time being entitled.

The tax payable by a ship charterer on the amount payable to him for the carriage of passengers, goods, etc., shipped in Australia has been increased from 5 per cent. to 10 per cent. of the amount payable.

When a company or the business of an absentee is being wound up, the liquidator or the agent, as the case may be, must now give notice of the winding up to the Commissioner and set aside from the assets a sum to provide for the payment of any income-tax that may be payable in respect of the Company or business.

Provision is also made for the recovery from the personal representatives of a deceased person of the tax due on the income derived by that person prior to his death; for requiring persons owing money to a taxpayer whose whereabouts are unknown to pay from moneys due to the taxpayer sufficient to pay the tax due by the taxpayer; for the payment of the tax of an absentee by a person receiving or controlling money of the absentee; and for the payment of tax in respect of a cash prize in a lottery by the person liable to pay the prize as agent for the winner of the prize.

The Income Tax Act (No. 41) imposes and levies income tax for the year 1918–19 and applies to all assessments made for the year 1919–20 prior to the passing of the Act for the levying and payment of tax for that year.

The Act imposes a super-tax of 30 per cent. of the total amount of tax payable and increases the tax on cash prizes in lotteries from 10 to 13 per cent.

The War-time Profits Tax Assessment Act (No. 40) is also an amending Act. Its principal object is to give power to modify the provisions

of the Act as regards new businesses and to prevent hardship likely to arise from the imposition of the tax in certain cases.

In the case of new businesses, namely, businesses not commenced until on or after August 4, 1912, and not reasonably established until on or after August 4, 1914, where the business is of the same class as established businesses, the Commissioner may fix the pre-war standard of profits by reference to the pre-war standard of profits of the established business; and in other cases the Commissioner may allow such pre-war standard of profits as he thinks necessary to meet the particular case.

It is also provided that the war-time profits tax shall not apply to the business of ship-building so far as regards contracts made with the Commonwealth during the war; nor to proclaimed mining businesses; nor to a limited extent to businesses deriving profits from raising and selling stud live stock. The exemption of persons on active service now extends to persons who are shareholders in a company of not more than twenty shareholders, and who were wholly employed in the service of the company.

The power of the Commissioner to increase the statutory percentage, calculate the percentage standard, or alter the pre-war standard of profits as respects certain businesses, is no longer restricted by reference to the financial stability of the businesses.

As in the Income-tax Assessment Act, provision is made for deductions in respect of contributions to patriotic funds and the Repatriation Department.

In the case of a co-operative company a deduction is allowed of so much of the profits as arises from business with the members of the company.

Provision is also made for land purchased by a member of a partnership and used rent free by the partnership to be treated as capital of the partnership.

The Land Tax Act (No. 30) is an amending Act and increases the land tax payable under the Act by 20 per cent. of the amount of tax payable.

The Entertainment Tax Act (No. 25) widens the incidence of the tax imposed on payments for admission to entertainments. Under the 1917 Act payments less than a shilling were not taxable. The 1918 Act provides that payments not exceeding a shilling (except payments, not exceeding threepence, for the admission on Saturdays between the hours of 12 noon and 6 p.m. of children under 12 years of age) shall be liable to one penny tax.

The Post and Telegraph Rates Act (No. 24) imposes war postage, in addition to the ordinary postal rates, of one half-penny per postal article, except in the case of newspapers posted in bulk, where the addition is one half-penny per twenty ounces.

The Loans Sinking Fund Act (No. 6) abolishes the Stock Redemption Fund created under the Commonwealth Inscribed Stock Act and establishes a new fund called the Loans Sinking Fund, which performs the same function as the Stock Redemption Fund, but, in addition, is to be applied in repaying moneys borrowed from the United Kingdom. The amount to be paid into the Fund every financial year is to be not less than ten shillings per centum on the public debt of the Commonwealth at December 31 in that year in respect of moneys raised under the

Commonwealth Inscribed Stock Act and moneys borrowed from the United Kingdom.

The Commonwealth Inscribed Stock Act (No. 7) is another amending Act, and provides for the acceptance by the Registrar of Inscribed Stock, in any case where a bank has advanced to a person money to enable that person to invest in a war loan, of a certificate of lien to the effect that the money has been so advanced, and for the entry of a memorandum of the certificate in the Stock Ledger, and thereupon no dealings with the stock or bonds may be recorded until the certificate is withdrawn. Provision is also made for the payment of interest on Treasury Bonds the interest on which is accumulated and not payable until the Bonds are presented for payment, and the redemption of any Treasury Bonds from war loan moneys.

The War Loan Securities Repurchase Act (No. 14) provides for the creation of the War Loan Securities Repurchase Account into which is paid each month a sum equal to one-eighth of the one per centum of the amount received in respect of war loans from lenders other than the United Kingdom. This account is to be applied in repurchasing securities issued in respect of moneys borrowed for war purposes other than moneys borrowed from the United Kingdom. If, after the termination of the war, the Treasurer is of opinion that the necessity for the account no longer exists, he may close the account, and the unexpected balance is then to be available for the purposes of any appropriation of war loan moneys.

Defence.—Two amending Defence Acts (Nos. 16 and 47) were passed during this year. The first Act makes more detailed provision for the time of discharge of members of the Military Forces, and in addition provides that, although the time of war has ceased, a soldier who would be entitled to discharge may be required to continue to serve during the continuance of a proclamation issued by the Governor-General declaring that, by reason of the recent existence of a time of war, it is necessary in the public interest that permanent Military Forces be maintained.

The second Act takes away from officers of the Active Forces their seniority in their respective ranks to officers of the Reserve Forces, and gives preference in promotion in the Military Forces to returned officers. Provision is also made to enable an apprentice to enlist in the Military Forces notwithstanding anything contained in his Articles; and the master of such an apprentice is required to re-employ the apprentice under the provisions of the Articles suspended by the apprentice's enlistment. Other amendments relate to the registration of trainees under the Universal Training provisions, and to the period of detention of trainees guilty of evasion of service.

The Control of Naval Waters Act (No. 28) gives power to regulate the entry into, movements in, and the doing of certain acts in any port, harbour, haven, roadstead, sound, channel, creek, bay or navigable river of Australia in, or near to which, the Commonwealth has any naval establishment, dock, dockyard, etc.

Judiciary.—The Service and Execution of Process Act (No. 29) adds to those cases where a summons for an offence may be served or a warrant may be executed in any part of Australia the case where a man fails to make adequate provision for the payment of maternity expenses in connection with the birth, or for the future maintenance, of a child of which he is the putative father.

Power is also given to apply the provisions of the Act to the service and execution of the process, and the execution of the judgments of the Courts of any State or part of the Commonwealth in the Territories of the Commonwealth and *vice versa*.

Acts Interpretation.—The Acts Interpretation Act (No. 8) enables a member of the Executive Council to act for a Minister of State.

The Amendments Incorporation Act (No. 32) provides that when an amending Act prescribes a method of citation for the principal Act as amended then in every reprint of the principal Act with amendments the short title is to be amended to accord with the prescribed method of citation.

Lands Acquisition.—Under agreements made between the Commonwealth and the States of South Australia and Western Australia, the States agreed to grant to the Commonwealth certain lands in consideration of the Commonwealth constructing the Kalgoorlie to Port Augusta Railway.

On the completion of the railway it was not practicable for the States to issue a grant of the lands under the agreements. It was, however, necessary that the railway (including the lands occupied by stations, etc.) should be vested in the Commonwealth Railways Commissioner, without delay, and, as some of the lands to be vested in the Commissioner were held by Crown Lessees or licensees, it was also necessary to provide for the payment of compensation to those persons in respect of the lands taken from them.

The Kalgoorlie to Port Augusta Railway Lands Act (No. 4), accordingly vests the railway and the lands used for the purposes of the railway in the Commonwealth Railways Commissioner and provides the basis of and method of assessing compensation in respect of lands held on lease or licence from the Crown.

Conciliation and Arbitration.—During the year 1918 the High Court decided, in the case of the *Waterside Workers Federation of Australia* v. *Alexander*, that the provisions of the Commonwealth Conciliation and Arbitration Act giving the Commonwealth Court of Conciliation and Arbitration power to impose penalties for breaches of awards and contraventions of the Act were invalid. During this year also the validity of the appointment of the Deputy President by the President was questioned. The Commonwealth Conciliation and Arbitration Act (No. 39) was accordingly passed to remedy the defect with respect to the punishment for breaches of awards and contraventions of the Act, power to impose penalties in such cases being conferred on Courts of Summary Jurisdiction ; and to make provision for the appointment of the Deputy President by the Governor-General instead of by the President. Another provision of the Act prohibits the making by the Court of any award or order which would operate to prevent the employment of returned sailors or soldiers.

Public Service.—The Commonwealth Public Service Act (No. 46) makes further provision for the benefit of persons who have served in the Naval or Military Forces during the war. Any telegraph messenger who has served with satisfactory record in an Expeditionary Force is not subject to any limitation on the duration of his employment in the Public Service unless the Public Service Commissioner otherwise directs. Appointments may now be made to the General Division without examination, preference being given to returned soldiers.

During the year a Royal Commission was appointed to inquire into the origin of birth and parentage of public servants. Power is now given to dismiss any person whose continuance in the public service is, in the opinion of the Royal Commission, detrimental to the public safety or defence of the Commonwealth.

2. NEW SOUTH WALES.

[*Contributed by* J. V. Macken, B.A., LL.B.]

Acts passed—Public 50; Private—4.

The volume of legislation was greater than for any other year of the war. It included several important new measures as well as amendments of previous Acts.

Regulation of Gas Companies.—Some important amendments were made in the Gas Act, 1912, which followed the general lines of the English Model Gas Bill. Under that Act, the standard rate of dividend was 10 per cent. on old capital, and 7 per cent. on new capital. The annual appropriation to the "special purposes fund" was limited to 2 per cent. on the paid-up capital. The fund was available for expenses incurred through accident or circumstances which due care and management could not have prevented, or through strikes, or for the replacement or removal of plant or works, or for contributions towards a fund for superannuation of employees. The provision for increasing the standard rate of dividend on the ground of increased cost of production was limited to increases caused by alteration in labour conditions.

With the conditions brought about by the war, including the state of the money market as well as the price of coal and other commodities, the companies urged that they could not obtain the new capital required for development, unless they were put in a position in which they could hold out to new shareholders a reasonable prospect of a dividend of 8 per cent. Under the Gas (Amendment) Act (No. 3) the standard rate of dividend is to be 8 per cent. for old and new capital alike. The annual appropriation allowed for the "special purposes fund" has been increased from 2 per cent. on the paid-up capital to 3½ per cent. of the amount expended out of borrowed and share capital on the buildings and manufacturing and distributing plant. The fund has been enlarged into the "special purposes and depreciation fund." The standard dividend may be increased on the ground of increased cost of production and distribution, including wages, freight, coal, oil, rates and other expenses properly charged under the Act to revenue.

Registration of Deeds.—Formerly registered copies of deeds were made on vellum or parchment, but, as a result of war scarcity and war prices, copies may now be made on prescribed material (Registration of Deeds (Amendment) Act (No. 4). A suitable paper has been found, and, as it is much cheaper, vellum or parchment has been largely superseded.

Judges Retirement.—The Judges Retirement Act (No. 9) makes it compulsory for a judge to retire at seventy, unless retiring leave is granted to him. In that case he is to retire on the expiration of the leave. The Act was modelled on the New Zealand Act of 1903 (Keith, *Responsible Government*, vol. iii, p. 1625) with the substitution of seventy

for seventy-two, and with the important difference that, while the New Zealand Act applies to future judges, the New South Wales Act applies to present as well as to future judges. Judges retiring under the Act are to have the same pension as if they served for the statutory period. Apparently this is the first time since the Act of Settlement that any Parliament in the British Empire has altered the tenure upon which a judge has been appointed.

Industrial Arbitration.—The Industrial Arbitration (Amendment) Act (No. 16) made important changes in principle and in detail.

The " right to strike," which had been taken away by the Act of 1912, is restored, except in the cases of (*a*) employees of the Crown, including various statutory boards, such as the Railway Commissioners for New South Wales, the Sydney Harbour Trust, and the Board of Water Supply and Sewerage ; (*b*) employees of any city, shire or municipal council ; (*c*) employees engaged in contracts for military or naval purposes ; and (*d*) employees in an industry, the conditions of which are regulated in whole or part by an award or by an industrial agreement.

But the right to strike is to be exercised only after fourteen clear days' notice in writing has been given to the Minister for Labour and Industry of the intention to strike, or of the existence of conditions likely to lead to a strike. This provision is intended to give the Minister, the Industrial Commissioner, and the Conciliation Committees an opportunity to avert the strike if possible by their intervention, and also to prevent hot-heads from " walking out " and bringing their fellow workmen with them from a sense of industrial loyalty (s. 15).

The sanction for an illegal strike is a penalty not exceeding £500 to be paid by the trade union, though it is not to be liable if it can show that, by the enforcement of its rules and by other means reasonable under the circumstances, it has endeavoured to prevent its members from taking part in the strike (s. 15).

An important innovation is that the Minister may, either before or during the strike, direct that a secret ballot of the members of the union shall be taken in order to ascertain whether the majority are in favour of the strike (s. 15).

Penalties are imposed (*a*) on persons who aid, instigate or direct an illegal strike, or obstruct a secret ballot ; (*b*) the proprietor and publisher of any newspaper which encourages an illegal strike ; (*c*) persons who do picketing in an illegal strike ; and (*d*) persons or unions who, during a strike, declare any commodity " black " (s. 15).

Provision is made for enabling a workman employed by a contractor to recover wages from the person who has entered into the contract with the contractor unless upon final payment the contractor has given a written statement setting out that no wages are now due. A false statement may be punished by fine and imprisonment (s. 16).

Some of the provisions in Part VIIA should strictly have been a separate Act, as they deal with the amendment of the Trade Union Act of 1881, and not with the amendment of the Industrial Arbitration Act of 1912. The distinction, however, which was emphasised in the earlier industrial legislation between a trade union registered under the Trade Union Act and an industrial union registered under the Industrial Arbitration Act, has been largely ignored by the later Acts.

A trade union may now apply its funds for any lawful object or

purpose for the time being authorised by its rules, and in particular may use its money for the furtherance of political objects, so long as (*a*) the money is paid from a separate fund; (*b*) contribution to the separate fund is not a condition of admission to the union, and (*c*) a member who does not contribute is not excluded from any benefits of the union or placed under any disability. The political fund is not liable to attachment (s. 17).

Other provisions of Part VIIA deal with the jurisdiction of the Court of Industrial Arbitration, and confer powers for enforcing not only the constitution or rules of a trade union, agreements between members of a trade union, and agreements between different trade unions, but also agreements made by a trade union with employers for the regulation of any business or industry (s. 17).

An important experiment has been made by the creation of the Board of Trade. The Board is a body corporate, with a President, who must be a judge of the Court, a deputy President, four Commissioners, and (under the amendment made by No. 39 of 1918, s. 7) one or more additional Commissioners appointed to represent rural industries who are to sit with the Board only when the living wage or other matters directly affecting rural industries are being dealt with. The Minister is an associate Commissioner, but has no vote (s. 21).

The main functions of the Board are to deal with (*a*) the living wage, and (*b*) apprenticeship.

Every year the Board is to hold a public inquiry as to the increase or decrease in the average cost of living, and to declare the living wage in the State or in any defined area for (*a*) adult male employees, and (*b*) adult female employees. In the case of employees engaged in rural occupations, there is to be a separate inquiry, and a separate declaration of the living wage. No industrial agreement is to be entered into, and no award made for wages lower than the living wage. The Board has since declared the living wage for the County of Cumberland (Sydney and its neighbourhood) to be £3 17*s.* per week, an advance of 17*s.* on the amount previously fixed by the Court. As the Court usually increases the rates of wages throughout an industry by a similar amount in order to preserve the margin for skill, the large advance declared by the Board has raised a serious problem for the employers, the Government and the community generally.

The functions of the Board with respect to apprenticeship cover such matters as determining in what occupations and industries apprenticeship is to be a condition of employment of minors, prescribing the hours of employment, wages and conditions of apprenticeship, and determining how far the number of apprentices is to be limited in any trade or calling, and how far technical education is to be obligatory upon apprentices and their masters.

Further functions of the Board are to encourage and create councils of employers and employees for the purpose of encouraging the proper apprenticeship of minors, and providing for the welfare of juvenile labour; to acquire and disseminate knowledge on all matters connected with industrial occupations with a view to improving the industrial relationship between employers and workers, and to combat the evils of unemployment; to collect and publish information relating to or affecting industrial conditions; to propound schemes for welfare work, and report as to the prices of commodities, and as to whether monopolies or

trade rings exist for the purpose of unfairly keeping up the prices of commodities; to investigate and report on the existence of sweating in an industry; to report on the productivity of industries, the number of employees in any industry, and the effect or probable effect of the regulation of the conditions of any industry upon such productivity; to consider and report upon the industrial efficiency of the community, the organisation of the labour market and opportunities of employment, and all questions relating to unemployment; to collect and publish statistics of vital social and industrial matters, and of labour employment and unemployment in specific industries; to encourage and assist in the establishment in different industries of mutual welfare committees and industrial enterprises; to encourage and assist schemes for mutual co-operation and profit-sharing between employers and employees; to encourage and assist in the establishment of hostels for women workers and workmen's clubs and libraries; to report and advise upon schemes for the better housing of the people; and to report upon any other matter referred by the Minister.

Part X provides for "the organisation of the labour market." For this purpose there are to be free employment agencies, under the name of State Labour Exchanges. The idea seems to be that the State should undertake the function, without fee, of bringing together the employer in search of labour and the employee in search of work, and should make advances by way of loan towards meeting the expenses of travel where the worker seeks to avail himself of opportunities of employment in another locality.

The Act also regulates private employment agencies. Persons carrying on these agencies must be licensed, keep registers, take no fees except in accordance with a prescribed scale, not share fees with employers, not keep as lodgers any persons seeking employment, and refund registration fees where employment is not obtained.

Part XI provides for insurance against unemployment. A Government subsidy may be paid, on the recommendation of the Board of Trade, to an "unemployment insurance committee" for the purpose of creating funds for insurance against unemployment or loss of work due to adverse weather or sickness or the casual nature of the employment offering in any industry. The subsidy is not to exceed 5 per centum of the total amount of wages paid to the employees represented by the committee. The Board of Trade must be satisfied that the employers and employees engaged in the industry contribute to the fund in proper proportions, and that the fund is administered by a suitable committee representative of employers and employees.

Birds and Animals Protection.—New South Wales has no game laws, but it has from time to time passed Acts for the protection of birds and animals, by forbidding destruction in some instances, and establishing a close season in others. The Birds and Animals Protection Act (No. 21), repeals previous legislation. It provides for the absolute protection of all birds and animals not mentioned in the schedule. The value of birds in keeping down insect pests is now generally recognised, and the Act combines utility with regard for bird life.

A large district near Sydney is set aside as a sanctuary within which no bird or animal, except such as may be proclaimed by the Governor, may be taken or killed.

The laying of poison for rabbits has had disastrous consequences

for birds in New South Wales, but the problem of poisoning rabbits and not poisoning birds appears to be at present insoluble. The Act prohibits the use of poison for the destruction or attempted destruction of any protected bird or animal, and empowers the Government to make regulations prescribing the method of laying poison, and safeguards in connection therewith, in order to prevent the destruction of protected birds and animals.

Crown Lands Leases Withdrawal.—The Crown Lands Leases Withdrawal Act (No. 29) is a measure rendered necessary by war conditions. In certain crown lands leases there is a clause permitting the Crown to resume the lease on payment for certain improvements, including wire netting. It has been the practice to assess the value as at the date of resumption. Wire netting increased enormously in price after the outbreak of war. The Act provides that the compensation for wire netting put up before August 4, 1914, is not to exceed the value of the netting on that date, and the compensation for wire netting put up after that date is not to exceed the value at the date when the netting was put up (s. 2).

Bail of Persons in Custody.—Before the Justices' Bail (Amendment) Act (No. 32) the power of granting bail to persons in custody was limited to certain justices of the peace called Bail of Chamber Magistrates, who, however, were not always immediately available. The Act now confers the power on any officer of police of or above the rank of inspector, any officer of police of or above the rank of sergeant in charge of the police station, and any gaoler.

Poor Persons' Legal Remedies.—The Poor Persons' Legal Remedies Act (No. 36) is an Act enabling necessitous litigants to prosecute their suits. Rules of Court are to be made by the judges regulating the procedure, practice, fees and costs in connection with such suits (s. 3). The permission of a judge must be obtained before proceedings are commenced, and the judge may act as conciliator (s. 4).

Company Debentures.—The Companies (Registration of Securities) Act (No. 37), which is modelled on the English legislation, provides for the registration of all debentures and other charges over the assets of a company. In view of the decision of the Court of Appeal *In Russian Petroleum and Liquid Fuel Company* [1907] 2 Ch. 540, it empowers a company, unless expressly precluded by its articles, to reissue redeemed debentures.

Proportional Representation and Electoral Law.—The Parliamentary Elections (Amendment) Act (No. 40) introduces the system of proportional representation for the election of members of the Legislative Assembly, and provides for the distribution of the State into five-membered and three-membered constituencies (s. 3A). It also extends the facilities and regulates the procedure of voting by post (s. 5).

Venereal Diseases.—The Venereal Diseases Act (No. 46) is the first attempt in New South Wales to deal generally with the problem, although the Prisoners' Detention Act, 1908 (as amended by No. 34 of 1918), made provision for the detention and cure of prisoners suffering from venereal disease. Other States have far-reaching legislation on the matter, and the present measure is largely modelled on the Victorian and West Australian Acts, but does not carry out the principle of compulsion to the same extent.

The patient is bound to consult a medical practitioner, who is to

give notice of the case to the Commissioner appointed under the Act, but is not to disclose the name or address of the patient, unless he ceases to attend for treatment. The patient must place himself under treatment by a medical practitioner, or at a hospital or other prescribed place, and continue under treatment until he receives a certificate that he is cured of or is free from venereal disease. If he does not comply with the requirements of the Act he is liable to a penalty not exceeding £20. But the Act does not provide for compulsory examination or for detention for treatment.

The medical practitioner is to warn the patient of the infectious nature of the disease, and against marrying before a certificate of cure. If he has reason to believe that a person suffering from venereal disease intends to marry, he may, after notice, give information to the other party to the proposed marriage. A person who marries, knowing that he is suffering from venereal disease in an infectious stage, is guilty of an indictable offence.

A person suffering from a venereal disease in an infectious stage must not work in any factory, shop, restaurant or hotel where he must handle food for human consumption, and no employer must knowingly employ any person to work in such a capacity.

The advertisement of cures is forbidden.

The Minister for Public Health is to establish hospitals for the treatment of venereal patients, arrange for free chemical and bacteriological examinations, and supply drugs, medicines and appliances.

Legal Status of Women.—Under the Women's Legal Status Act (No. 50) a woman may be elected and act as a member of the Legislative Assembly, as mayor or alderman of any municipality or shire, may be appointed a judge of the Supreme or District Courts or a stipendiary or police magistrate or a justice of the peace, and may be admitted to practise as a barrister or solicitor.

3. QUEENSLAND.

1916.

Contributed by The Hon. L. E. Groom, M.A., LL.M., M.P., *and* J. F. Gamble, Esq., B.A., LL.B.]

Agricultural Measures.—The Fertilisers Amendment Act (7 Geo. V. No. 4) extends the operation of the Fertilisers Act, 1914, to certain kinds of refuse which were previously excluded from the Act, and to substances containing lime. The object of the Act is to ensure that all manures sold shall conform to certain standards in regard to ingredients.

The Fruit Cases Act Amendment Act (7 Geo. V. No. 5) provides that no person shall sell fruit or vegetables unless the outer layer or shown surface is so arranged or packed that it is a true indication of the fair average quality of the whole of the fruit or vegetables.

The Diseases in Plants Act (7 Geo. V. No. 8) repeals the Diseases in Plants Act 1896 and re-enacts it with amendments. S. 4 empowers the Governor in Council to declare that the introduction from other States into Queensland of trees, plants or vegetables likely to introduce any insect, fungus or disease, is absolutely prohibited or permitted only as prescribed. Similar action may be taken in regard to the removal

of trees, plants or vegetables from any nursery or orchard in the State, or from one district to another. The Governor in Council may declare any plant, insect, or fungus to be a pest, and such pest may then be dealt with as prescribed by regulations. The Act also makes provision for the proclamation of districts as fruit districts, and the compulsory registration of orchards and nurseries (ss. 4, 6). The provisions in regard to the appointment of inspectors, and the measures to be taken for the eradication of pests and diseases follow, in the main, the provisions of the Act of 1896.

Banks and Banking.—The Queensland Government Savings Bank Act (7 Geo. V. No. 17) establishes the Queensland Government Savings Bank and makes provision for the organisation necessary to carry on the bank. Prior to the passing of the Act there were 11 Acts relating to Saving Banks in force in Queensland, the first of them having been passed in 1853, when Queensland formed part of the State of New South Wales. These Acts are repealed by the present Act; so also are the Agricultural Bank Act and the Workers' Dwellings Acts.

S. 5 provides for the appointment of a Commissioner of the Bank and sets out the conditions under which he is to hold his office. It contains the usual provisions designed to place an officer in an independent position and to ensure that he shall have no interests conflicting with his duty.

The Commissioner is constituted a corporation sole and has power to take, purchase, sell, exchange, lease, and hold land, goods, chattels, securities, and any other property whatsoever (s. 6). He may also purchase, sell or lease land, erect buildings and carry on insurance business with borrowers from the bank (s. 8).

The general administration of the bank is placed in the hands of the Commissioner, but certain rules in regard to the business of the bank are set out in the first schedule, and these must, of course, be followed, though they may be amended or added to by the Governor in Council (s. 7).

The corporations of the Trustees of the Agricultural Bank and the Workers' Dwellings Board are dissolved, and their assets and liabilities are transferred to the Commissioner (s. 12), who is authorised to carry on the activities previously carried on by these bodies. He may make advances to farmers for the purpose of making improvements on their holdings, buying stock, machinery or implements, and for certain other purposes of a similar nature, but he must not advance more than £1,200 to any one person (s. 21). He may also make advances for workers' dwellings to persons whose incomes do not exceed £200 per annum, but he must not advance more than fifteen shillings in the pound of the fair estimated value of the dwelling-house and the land on which it is erected, and no advance to any one person must exceed £350 (s. 22).

For the purpose of meeting liabilities transferred to him in connection with these two activities, and in order to obtain funds or additional funds for the purpose of making advances, the Commissioner may, with the approval of the Governor, raise, by the issue of debentures, a sum not exceeding £5,000,000 (s. 20). He may also obtain loans from the Government, and the repayment of any money borrowed by him is guaranteed by the Government (s. 19).

Commonwealth Taxation.—The State Salaries (Commonwealth Taxation) Act (7 Geo. V. No. 18) is a short Act which waives the rights of the

State under the Doctrine of Instrumentalities in regard to the immunity of State public servants from Commonwealth Income-tax.

Fisheries.—The Fish Supply Act (7 Geo. V. No. 25) is an "Act to make better provision for the supply of fish by means of state enterprise." The Act constitutes a metropolitan fish supply district comprising the city and suburbs of Brisbane, and provides that further fish supply districts may be constituted by the Governor in Council (s. 4). The administration of the Act is placed in the hands of the Minister, *i.e.* the Treasurer or other Minister for the time being administering the Act, and he is authorised to carry on the business of the getting, preparation, storage, sale, supply and distribution of fish and all products and by-products of fish, and for that purpose has power to establish, maintain, regulate and control markets, depots, shops, factories, preserving and refrigerating works, canneries and other suitable works, and to purchase, hire or compulsorily acquire lands, buildings, ships, boats, trawlers, machinery, and all necessary furniture, gear, implements and equipment. The Minister may appoint such officers as he requires, to hold office during his pleasure. He may also enter into such contracts as are necessary for the purposes of the Act. A separate fund must be established in connection with each fish supply district, and all moneys received from that district must be paid into the district fund (ss. 5, 10). The powers of the local authorities in regard to fish markets are transferred to the Minister (s. 6), and he is directed to establish a market and such branch markets as he thinks necessary in each district (s. 7). He is also charged with the superintendence and control of these markets (s. 8), and all fish sold must be inspected at the market or be certified as fit for human consumption by an inspector appointed under the Act (s. 9). The Minister may require any employee or officer to render accounts or produce documents (s. 12), and may direct that prosecutions be instituted for offences against the Act (s. 14). The books and accounts of the Minister must be audited once at least in every year by the Auditor-General (s. 15). The Minister, with the approval of the Governor in Council, may make such regulations as are necessary to carry the Act into effect (s. 16).

Gas.—The Gas Act (7 Geo. V. No. 11) is an Act "to prescribe standards of heating power, purity and pressure of gas, and to regulate the price thereof; to regulate companies and others supplying gas; and for purposes consequent thereon or incidental thereto." All gas supplied must conform to certain standards of quality in regard to heating power and purity, and must be supplied at a prescribed pressure. Certain instruments are prescribed for testing gas, and the company supplying the gas must provide testing places and supply the apparatus required (s. 5). Gas examiners are to be appointed by the Governor in Council, and they may test the pressure of gas at any public lamp or at the inlet of any meter. They may also test the heating power and purity of the gas, and for this purpose may enter upon the premises of the company (s. 6). If the gas is found to be below the required standard the company is liable to a penalty, unless it is proved that the deficiency or defect was caused by circumstances beyond the control of the company (s. 7). Any person resident within twenty-five yards of a gas-main may request the company to supply him with gas, and, subject to certain conditions, the company is compelled under penalty to lay the necessary pipes and supply gas (s. 9). Similarly, twenty persons in a defined locality in

which the company is authorised to supply gas may address a memorial to the Minister setting forth that their premises could conveniently be supplied with gas and ought reasonably to be so supplied, and undertaking to receive and pay for gas for twelve months. Thereupon the Minister may refer the matter to a referee appointed under the Act, who, if he is satisfied that the gross sales of gas will amount to 20 per cent. on the outlay required, may order the company to lay the necessary mains for the purpose of supplying gas to the premises. If the company does not comply with this order the Minister may cause the work to be done and may recover the cost from the company (s. 10). Gas referees appointed under the Act have powers similar to those of a Judge of the Supreme Court (s. 8). No meter is to be issued until it has been tested and stamped by a gas examiner, and every meter must be tested and stamped at intervals of not more than seven years (s. 11). Provision is made for fixing the price of gas (s. 12), and detailed directions for ascertaining the price are contained in the Third Schedule. The expenses of the company and the actual amount of money invested in the undertaking are to be ascertained. An amount is allowed for depreciation, and a return of 8½ per cent. on the actual capital invested (Sch. III). The company, or the Minister, or fifty consumers may, at certain intervals, require the price of gas to be referred to a gas referee for consideration, and thereupon the referee shall hear and determine the matter and fix the price in accordance with the directions contained in the Third Schedule. An appeal lies from the decision of the gas referee to the Industrial Court (s. 13). Not more than 1 per cent. of the paid-up capital of any gas company is to be placed in the Reserve Fund, and this fund must not at any time exceed 10 per cent. of the paid-up capital (s. 15). Every gas company must furnish an annual statement of accounts to the Minister (s. 16), and the Auditor-General may, at the request of the Minister, examine the books and accounts of any gas company (s. 17). No company is liable to the penalties or forfeitures inflicted by the Act unless action is taken before a justice of the peace within three months after the offence is committed (s. 20).

Health.—The Health Acts (Amendment) Act (7 Geo. V. No. 13) amends the Health Acts 1900 to 1911, mainly by extending the provisions relating to venereal diseases. Every person, whether male or female, suffering from any venereal disease, must, within three days after becoming aware of, or suspecting, the fact, consult a medical practitioner, and must attend for treatment at least once in every four weeks, and follow, as far as possible, the advice given. Contravention of these provisions entails a penalty not exceeding £20. The medical practitioner must forthwith furnish a report to the Commissioner of Public Health setting out the age, sex, occupation and marital status of the patient. He must also, by written notice, direct the patient's attention to the contagious character of the disease, and to the legal consequences of infecting others (a fine not exceeding £100 or imprisonment for twelve months), and must warn the patient against contracting any marriage until he is certified as cured. If the patient persists in his intention to marry after receiving this warning, a communication by the medical practitioner to the other party is absolutely privileged. If any such person marries without informing the other party that he is suffering from a venereal disease, the marriage may, subject to certain conditions, be annulled. If a patient has not sufficient means to pay for the medical

attendance necessary the Commissioner of Public Health may pay a reasonable remuneration to the medical practitioner concerned. Subsidised hospitals may be required to make provision for the treatment of persons suffering from venereal diseases and in default of compliance the whole or part of the subsidy may be withheld. Proceedings under these sections are to be held *in camera* and no report thereof must be published in any newspaper. The Act also prohibits advertisements for the cure of venereal diseases (s. 11).

Insurance.—The Insurance Act of 1916 (7 Geo. V. No. 27) is "an Act to authorise the carrying on by the State of Queensland of all classes of insurance business not already authorised by 'The Workers' Compensation Act of 1916,' and to regulate the carrying on of insurance business in Queensland by the State and other insurers." The Act provides for the establishment of a State Government Insurance Office for the purpose of carrying on all classes of insurance business. The Insurance Commissioner appointed under the Workers' Compensation Act is to be the Insurance Commissioner under this Act, and the State Accident Insurance Office constituted under that Act is to become a branch of the State Government Insurance Office. Provision is also made for the appointment of such other agents and officers as are necessary (ss. 4, 6). A separate fund must be created in respect of each class of business carried on, and premiums must be credited and payments debited to the proper fund. A sum of £100,000 is granted to the office in addition to the sum of £20,000 granted under the Workers' Compensation Act (s. 8). All policies are guaranteed by the State (s. 9). In regard to other insurers, no person is allowed to carry on insurance business unless he has received a licence from the Commissioner, and every applicant for a licence must deposit with the Treasurer a sum of £5,000 or £10,000, according to the income received from his business. Amounts deposited are invested in Government Securities at 4½ per cent. free of income-tax, and the interest paid to the insurer. In the event of a judgment being against the insurer the deposit is available for the satisfaction of the judgment if it is not otherwise satisfied. If the insurer ceases to carry on business the securities are transferred to him (ss. 10–12). Every insurer must have a registered office and chief representative in Queensland (s. 13). Every policy, renewal notice, renewal receipt, etc., issued at a rate higher than 80 per cent. of the gross rate fixed by the Fire, Marine or Accident Underwriters' Association of Queensland must bear a special endorsement to that effect (ss. 14–15). The Commissioner may require other insurers to furnish him with returns in regard to their business, but such returns must be used for statistical purposes only (s. 16). The maximum commission permitted to be paid to brokers or agents is 10 per cent. in the aggregate, and directors' fees are fixed at from £50 to £100 per annum. All insurance agents and brokers must be licensed by the Commissioner and must pay licence fees (ss. 17, 18). The Commissioner may cancel an insurer's licence if he is satisfied that the insurer is unable to pay his debts or that he has failed to comply with the Act or is persistently acting in breach of any provision; but an appeal lies from the Commissioner's decision to a police magistrate, and finally to the Full Court (s. 19). Every insurer must furnish annually to the Commissioner a profit and loss account, and must, if required by the Commissioner, produce books, accounts and documents for inspection by a practising public accountant (s. 20). Copies of forms proposed

to be used by insurers must be lodged with the Commissioner (s. 21). Reinsurance is restricted. In regard to reinsurance between licensed insurers limits are fixed for the rates of reinsurance and commission (s. 22). If property in Queensland is damaged or destroyed by fire and the loss exceeds £50, an inquiry into the origin, causes and circumstances of the fire must be held by a police magistrate or other justice appointed for the purpose (s. 26). Directions in regard to the conduct of business by the State Government Insurance Office are contained in the First Schedule.

Labour.—The Factories and Shops Amendment Act (7 Geo. V. No. 14) provides for the payment of registration fees by factories and shops (s. 8), and extends the provisions of the principal Act in regard to sanitary arrangements for factories. Separate and suitable places for partaking of refreshments must be provided for employees wherever practicable, and the employment of youths and females in certain specified classes of work of a dangerous or unhealthy character is prohibited (s. 12). A new part is inserted relating to the stamping of furniture. All furniture must bear a stamp indicating whether the furniture has been made in Queensland or imported and, if made in Queensland, whether made by European or Chinese labour (s. 22).

The Industrial Arbitration Act (7 Geo. V. No. 16) repeals the Industrial Peace Act of 1912 and enacts new provisions. The Court of Industrial Arbitration has all the powers and jurisdiction of the Supreme Court in addition to the powers and jurisdiction conferred by the Act, which are very wide. It may determine questions of law and fact, and may, on application, or of its own motion, regulate the conditions of any calling or callings (s. 7). The Court may declare general rulings as to such matters as the cost of living, the standard of living, the minimum rates of wages for persons of either sex and the standard hours (s. 9). The Act lays down general directions to be observed by the Court and by Boards appointed under the Act, *e.g.* that the same wage must be paid to persons of either sex performing the same work or producing the same return of profit; that employees must not be worked on more than six out of seven consecutive days except in certain specified classes of work, and the time worked on six consecutive days must not exceed forty-eight hours; that the time of employees working under ground is to be reckoned from bank to bank, and must not exceed six hours unless a temperature under 85° Fahrenheit is maintained; that overtime must be paid for at a rate of at least double time. The Court may remit any matter to a Board for inquiry and report, or for determination and award, and may remit to an Industrial Magistrate any proceedings for the recovery or enforcement of penalties incurred under the Act (s. 11). An appeal lies to the Court from any award made by a Board or any decision or finding of an Industrial Magistrate (s. 14). The Court itself may, and must, on the application of a party interested, state a case for the opinion of the Full Court on any question of law or fact (s. 19). The judge may act as mediator whenever he thinks it desirable (s. 20), and may summon compulsory conferences (s. 21). The Act provides for the registration of industrial unions, and any association consisting of employees of the Government may be registered as an industrial union (s. 26). The Industrial Boards appointed under the repealed Act are dissolved, but new Boards may be appointed by the Minister on the recommendation of the Court. Such Boards are to con-

sist of two or four representatives of employers and employees and a chairman (s. 38). The Boards may conduct their proceedings in public (s. 49) and may make recommendations or awards according to the instructions received from the Court (s. 38). The Act authorises the making of industrial agreements and provides for their registration and enforcement (Part V). The Court may, after notice to all parties interested, declare that any such agreement shall have the force of an award and be a common rule of any calling or callings to which it relates (s. 56). Provision is also made for the notification of districts and the appointment of Conciliation Committees in those districts. These Committees are to consist of a chairman and two or four representatives of employers and employees (Part VI). Strikes and lock-outs are prohibited under penalty, except when authorised by the industrial union (by ballot) or the employers in the calling concerned. Industrial unions are not responsible for acts of members committed contrary to instructions given by the governing body of the union or without the knowledge of that body (ss. 65, 66). Union officials have the right to enter premises and ships and to converse with employees during lunch-hour or other non-working time (s. 90).

The Workers' Compensation Act Amendment Act (7 Geo. V. No. 26) extends the provisions of the principal Act to cases in which workers have contracted diseases in consequence of their employment, *e.g.* the contraction of anthrax by men engaged in wool-combing, wool-sorting, etc., the contraction of lead-poisoning, mercury-poisoning, or phosphorus-poisoning by men engaged in the manufacture of these substances, or the contraction of miners' phthisis and certain other diseases by miners. The future employment of men in the occupations referred to is restricted to men who are already employed in those occupations and men certified by a medical referee to be free from the diseases mentioned.

Crown Land.—The Land Act Amendment Act (7 Geo. V. No. 19) makes a number of amendments to the principal Act. Amongst other things, it provides that after January 1, 1919, no Crown Land will be auctioned in fee simple ; the title offered will be that of Perpetual Lease.

The Discharged Soldiers' Settlement Act (7 Geo. V. No. 32) deals with the settlement of discharged soldiers on Crown Lands. The Minister may acquire land required for the purposes of the Act and may set aside Crown Land for those purposes (ss. 3, 4). This land is open for selection by discharged soldiers under perpetual leasehold tenure. For the first three years the rental is a peppercorn, and thereafter at the rate of 1½ per cent. of the capital value (s. 5). Discharged soldiers may select town and suburban land under similar conditions (ss. 6, 7). Advances up to £500 may be made to settlers for the purpose of making improvements, the interest charged being 3½ per cent. for the first year, and increasing by ½ per cent. each year until the rate of interest paid by the Government for the money is reached, but in no case will the interest exceed 5 per cent. (s. 8).

Medical.—The Dental Act Amendment Act (7 Geo. V. No. 23) amends the provisions of the principal Act in regard to the practice of dentistry by persons not registered under the Act. It also provides for the payment of an annual licence fee by registered dentists.

Mining.—The Mines Regulation Act Amendment Act (7 Geo. V. No. 12) amends the principal Act (*inter alia*) by extending the provisions in regard to accidents. All accidents must be notified to an inspector

and certain information supplied in regard thereto (s. 13). In certain mines a competent person must be employed to make examinations in regard to the presence of gas, the sufficiency of the ventilation and the state of the roof and sides (s. 20).

Money-lenders.—The Money-lenders Act repeals the Usury Act of 1834 and enacts new provisions in regard to this matter. The Act provides for the reopening of money-lending and hire-purchase transactions when matters in connection therewith come before the Court (ss. 4, 5). All money-lenders must be registered and must transact business under their registered names. They must also supply full information in regard to securities transferred by them. *Bona fide* holders for value under contracts affected by this section are protected, but the money-lender is liable to indemnify the borrower or any other person who is prejudiced in consequence thereof (s. 6). Any money-lender or agent or clerk of a money-lender who makes false statements or representations in order to induce a person to borrow money is liable to one year's imprisonment or a fine of £500 or both (s. 7). The Act also contains provisions for the protection of infant borrowers (ss. 8–10), and provisions to ensure that the borrower understands the purport of the document and executes it voluntarily (s. 11). Where interest is payable at a rate for any period less than a year, the total amount of interest payable or the rate per annum must be stated. Otherwise not more than 12 per cent. can be recovered (s. 12). Where more than 12 per cent. is charged, a duplicate of every document executed by the borrower must be handed to him (s. 13). The charge for obtaining or guaranteeing a loan is limited to 5 per cent., and the lender is not permitted, directly or indirectly, to receive any part of this charge (s. 14). Similarly, no fee or charge can be demanded from the borrower for debt-collecting (s. 16).

1917.

Agriculture.—The State Produce Agency Act (8 Geo. V. No. 12) makes provision for the establishment of a State Produce Agency for the purpose of receiving, storing, selling and distributing produce as agent for the producer or owner thereof. "Produce" includes cereals, potatoes, fruit, dairy produce, rice, rubber, manures and many other products. Additional articles may be declared to be "produce" by the Governor in Council. For the purposes of the Act, the Minister may establish and maintain produce stores, cold stores, fruit and vegetable canning factories, grain silos, etc., and may purchase or otherwise acquire real and personal property. He may also make advances against consignments of produce. The Governor in Council may appoint officers for the administration of the Agency, and these officers must not engage in any other business or employment. Strict accounts and records must be kept by the Agency, and an annual report and balance-sheet presented to Parliament. A reasonable commission may be charged, but the rate must be the same to all persons irrespective of the quantity of produce consigned. The terms of sale of produce by the Agency will be cash on delivery. Once a year the Auditor-General must certify what was the net profit, if any, of the Agency during the preceding year, due allowance being made for rent, interest, depreciation and other items of expense of the business and its management. The amount of profit so certified will be distributed amongst the consignors in propor-

tion to the amount of commission charged to each (ss. 2, 3). It is expressly stated that the Act confers no monopoly on the Agency, and that the Agency has no greater rights or privileges than are conferred on any other agent selling farm produce (s. 6).

The Farm Produce Agents Act (8 Geo. V. No. 17) provides for the registration and licensing of farm produce agents. No farm produce agent must, directly, or indirectly, purchase, or be interested in the purchase of, any farm produce consigned to him unless he has previously obtained the consent of his principal. The penalty for breach of this provision is a fine of £50, and in addition the agent must pay over to his principal any profit resulting from the purchase. The provision also applies to employees of farm produce agents (s. 5). Strict provision is made in regard to the application of moneys received by farm produce agents (s. 6). Fees and penalties are to be paid into the Consolidated Revenue, but provision is made for the apportionment of part of the penalty to any person who has sustained loss by reason of the act or default which constitutes the offence (s. 10). Account sales of farm produce sold must be rendered by farm produce agents to their principals within fourteen days after the sale of the produce (s. 11). The power to make regulations is wide. For instance, regulations may be made in regard to the forms and particulars of accounts sales, the records to be kept by farm produce agents, the inspection of such records by principals or other authorised persons, the issue of official market reports, and the checking of weights (s. 12).

Children.—The State Children Act Amendment Act (8 Geo. V. No.13) extends the age limit in regard to the grant of state aid to neglected children from thirteen years to fourteen years, and if any such child wins a State Scholarship the State may maintain or assist in the maintenance of the child for an additional period during the term of the scholarship.

Medical.—The Opticians Act (8 Geo. V. No. 7) is an Act "to secure the better training of opticians, to regulate their practice, and for other purposes." It provides for the constitution of a Board of Optical Registration, to consist of four certified opticians elected by the certified opticians in Queensland and one medical practitioner appointed by the Governor in Council (ss. 4, 5). The Act also lays down the qualifications necessary to entitle a person to practise as an optician (s. 9). Certain restrictions are placed upon the sale of spectacles and provision is made for the registration of spectacle-sellers (s. 10). Medical practitioners only are permitted to assume the title of oculist or ophthalmic surgeon and to prescribe or administer any drug for paralysing the accommodation of the eye or for any disease of the eye, and the right to sell or supply such drugs is limited to medical practitioners and registered chemists (s. 12). No person is entitled to practise as an optician unless registered by the Board (s. 15). The Board will conduct examinations for the convenience of persons who desire to qualify for registration as opticians, and it has power to suspend any licence and to remove names from the register in cases of misconduct, etc. (s. 19). S. 26 prescribes penalties for various offences, such as obtaining registration by false pretences, making false statements to the Board, forging certificates, falsely personating a certified optician, etc. Every registered optician must take out a certificate annually and pay an annual licence fee (ss. 23, 28). A right of appeal lies from every decision or

ruling of the Board or the Register to a Judge of the Supreme Court (s. 27). All penalties and fees are to be paid to the Board, and are to be used for the purpose of defraying expenses in connection with the administration of the Act (ss. 28, 29).

The Pharmacy Act (8 Geo. V. No. 11) repeals and re-enacts with amendments the Pharmacy Act of 1884, but the principles of that Act are not departed from to any great extent. A Pharmacy Board is to be established consisting of four members appointed by the Governor in Council and three members elected by the pharmaceutical chemists of Queensland. The Registrar of the Board will also be elected (s. 4). The Act deals with the qualifications necessary to entitle a person to be registered as a pharmaceutical chemist (s. 10), the holding of examinations (s. 13), the keeping of a Register of Pharmaceutical Chemists (ss. 14–16), the removal from the register of the names of persons guilty of certain offences or of infamous conduct (s. 20), and the carrying on of business by unregistered persons (s. 23). Every pharmaceutical chemist who has an apprentice or pupil must permit him to attend any lectures or gain any practice which may be prescribed as part of the course of study of persons desirous of being registered under the Act (s. 29). The Board has power, with the approval of the Governor in Council, to make regutations in regard to (*inter alia*) the fees in connection with examinations, registration, licences, etc., the registration of contracts of apprenticeship, and the course of study and examination for persons desirous of obtaining registration (s. 30).

Sugar.—The Regulation of Sugar-cane Prices Act Amendment Act (8 Geo. V. No. 18) amends the provisions of the principal Act (*inter alia*) in regard to the constitution of the Central Board. In future the technical members of the Board (sugar chemist and accountant) are to have no votes, their powers being purely advisory and consultative (s. 3). The Act also provides for the appointment of check chemists to ensure that the cane is properly weighed and sampled and to record the quantity of sugar-cane crushed in each mill and the output of sugar. The cane-growers themselves may appoint a person to check the weighing of the cane (s. 6). The powers of the Central Board are enlarged. It is given jurisdiction over all matters arising under the Act where no Local Board has been constituted and all matters which are submitted to it by the Minister. No member of Parliament and no member of the legal profession can act as a member of the Central Board or of a Local Board (ss. 4, 9). Persons authorised by the Central Board may inspect any mill or farm and any books and records kept in connection with the mill or farm (s. 6). In regard to matters arising under the Act, the Chairman of the Central Board is given some of the powers of an Arbitration Judge. He may mediate whenever it appears to him that his mediation is desirable in the public interest. He may convene compulsory conferences, and may make suggestions with a view to bringing about a settlement of the matter. Every award or decision of the Local Board, the Central Board or the Chairman of the Central Board is final, and the matter cannot be removed into any Court (s. 9). The Chairman of the Central Board may exclude any person from any hearing or inquiry, or may administer an oath of secrecy to any interested person (s. 10). Where the owner of a mill fails, without reasonable excuse, to take delivery of sugar-cane or carry on crushing operations, the Central Board may so award and declare, and the Minister may

then take possession of the mill and carry on the business of the mill, subject to the payment of reasonable compensation to the owner (s. 12). The Central Board is given power to rescind or vary its own Acts, and may cause its awards or decisions to have retrospective effect (s. 13). The Central Board may also depute any person to take evidence in regard to any matter arising under the Act, and that person will have power to summon witnesses, to compel the production of documents, and to take evidence on oath or affirmation. In certain cases where undue delay occurs or irrelevant evidence is called the chairman may order the party responsible to pay costs (s. 15). The regulations may provide for the keeping of books and records by mill-owners, and the keeping of certain records by cane-growers and for the inclusion of such particulars in returns (s. 12 and Schedule II.).

1918.

Education.—The Technical Instruction Act Amendment Act (9 Geo. V. No. 13) authorises the Education Department, subject to such conditions as the Governor in Council may impose, to take charge of and administer technical colleges which are in receipt of state aid. The Governor in Council may make regulations in regard to the appointment of committees of management, the appointment of the teaching staff, the syllabus of instruction, the fees to be paid for instruction, the holding of examinations and granting of certificates and diplomas, the establishment of branch classes, and generally for the management of the colleges.

Labour.—The Wages Act (9 Geo. V. No. 19) is an Act "to make better provision for the payment of wages due to workers, and for other incidental purposes." The Act repeals the existing Wages Act and the Masters and Servants Act. In place of these Acts it adopts the provisions of the New Zealand Act of 1908. Workers employed by contractors have a first charge for their wages on money due to the contractor by the employer, *i.e.* the person for whom the work is being done (s. 4). Any assignment of this money by the contractor is of no effect as against wages due to workers (s. 5). Nor can it be attached after he has received it until all wages are paid. The contractor must keep accounts showing how he has disposed of all such money, and any worker whose wages are more than eight days in arrear may demand to see these accounts (s. 6). Any worker whose wages remain unpaid for twenty-four hours after they become payable may serve a notice of attachment upon the employer, who must then retain any amounts which are, or thereafter become, due and payable to the contractor, or pay them into court (s. 7). This money is available to satisfy any judgments which may be obtained by workers against the contractor. Workers who lodge notices of attachment within seven days of the first notice rank equally amongst themselves and have priority to workers who lodge notices after that time (ss. 8, 9). The employer is liable only for the amount due to the contractor (s. 10), but, if he fails to pay the wages when served with the order of the Court, the worker may sue him for the amount, and for that purpose "stands in the shoes" of the contractor (s. 11). If the employer has paid the contractor in advance, he cannot set off or be credited with such payments (s. 12). Workers employed by a subcontractor are placed in a similar position, but in

this case the contractor stands in the place of the "employer" (s. 16). In the case of single workers with dependents and married workers no order attaching or charging their wages can be obtained except in regard to the wages in excess of £2 per week (s. 17). An employer who has paid wages due by a contractor has a preferential claim for the amount in case of the insolvency of the contractor (s. 18). Wages must be paid in money or by open cheque, and any worker may recover so much of his wages as has not been actually paid to him in this manner (ss. 19, 20, 25). Contracts must not contain stipulations as to the mode of spending the wages earned (s. 21). No set-off is allowed to the employer for goods supplied or for sharpening or repairing tools (ss. 22, 23). The Act does not apply, however, to cases in which an employer contracts to supply the worker with medicine, tools, foodstuffs or certain other goods (s. 28). A penalty not exceeding £10 is imposed in the case of breach of agreement by either employer or worker (s. 30). Penalties are also provided for making false representations in order to obtain employment, and for wilfully or negligently spoiling or destroying machinery, tools, work or materials, or wilfully or negligently abandoning, losing or injuring cattle or other property (s. 31). The Act also deals with the period of notice required to terminate employment (s. 32) and the remedies of an employer where a worker unlawfully absents himself (s. 33). Claims for wages are to be determined in a summary way by a Court of Petty Sessions (s. 34). Wages may be recovered from an agent (s. 35), and in, certain cases, from a mortgagee in possession of land or other property in connection with which the worker has been employed (s. 36). In the case of mines, the amount of wages due to the workers, not exceeding four weeks' wages, is made a first charge on the claim, notwithstanding any mortgage or lien over it (s. 37). It is an offence for an employer to withhold any clothes, tools or other property of a worker (s. 38). Minors may sue under the Act (s. 39) and the Court may award costs in all cases (s. 40). Agents are made liable for offences against the Act where they are the actual offenders, and employers are exempt from liability in cases where offences have been committed without their knowledge or consent and the actual offenders have been punished (s. 42).

The Workers' Compensation Acts Amendment Act (9 Geo. V. No. 21) extends the principal Act to salesmen, canvassers, etc., and contractors who work on their own contracts (s. 2). It also adds a table showing the compensation payable for various injuries (s. 5), and makes various amendments to the provisions relating to diseases contracted in the course of employment.

Crown Land.—The Lands Acts Amendment Act (9 Geo. V. No. 8) provides for the giving of priority in connection with applications for perpetual leases to discharged soldiers and men on active service. The Act also provides that the Governor in Council may grant permission to trustees and companies to bid for, acquire and hold perpetual leases.

Land-tax.—The Land-tax Act Amendment Act (9 Geo. V. No. 3) imposes a super-tax on land in cases where the unimproved value exceeds £2,500.

Trade.—The State Enterprises Act (9 Geo. V. No. 20) is an Act "to authorise the establishment and carrying on of state industrial enterprises, and for the regulation of the same, and for other incidental purposes." The Act applies to the following state enterprises: state

pastoral stations, butchers' shops, saw-mills, coal-mines, iron and steel works, canneries, fish supply, Produce Agency, and to other enterprises carried on under the authority of the Act (s. 4). Provision is made for the establishment of a State Trade Office and a State Trade Commissioner to carry on the enterprises mentioned (ss. 5, 6). The Commissioner is to be a corporation sole with power to take, purchase, sell, exchange, lease, and hold land, goods, chattels and other property, but no dealing with land by the Commissioner will be effective until the approval of the Governor in Council has been obtained (s. 9). The Commissioner must not be or have been a member of the Executive Council or of either House of Parliament during the previous five years, and must not take part in the management of any bank, joint-stock company or other financial institution (s. 10). He may be suspended by the Governor in Council, but can only be removed from office on the resolutions of both Houses of Parliament (s. 11). He is deemed to have vacated his office, however, in certain circumstances, *e.g.* if he engages in outside business, becomes insolvent, or is absent from his duty without leave for fourteen consecutive days (s. 12). The Commissioner has power to appoint a secretary, and such other employees as he thinks necessary (s. 16). The secretary may act as Commissioner, under the direction of the Minister, during the illness, absence or suspension of the Commissioner (s. 14).

In respect of each state enterprise a separate fund must be established and all moneys received by the Commissioner must be paid into the proper fund. The cost of administration of the Trade Office will be apportioned amongst the various funds as the Commissioner from time to time directs (s. 17). The Governor in Council may, upon such security as he thinks necessary, authorise loans to be made to the Commissioner out of Loan Funds or by the issue of debentures (s. 18). He may also vest Crown Land in the Commissioner, and the Secretary for Public Lands may set aside Crown Lands for his use (s. 19). S. 21 contains the usual provisions authorising the making of regulations to give effect to the Act. Certain provisions in regard to the conduct of the business of the Trade Office are contained in the schedule. These provisions may be amended or added to by the Governor in Council. They deal with such matters as the adjustment of accounts of the various enterprises, the appointment of agents, the establishment of branches and agencies, the mode of entering into contracts, the mode of making payments out of the various funds, the application of profits, and the establishment of reserve funds. The Commissioner must furnish annually to the Minister a report and balance-sheet and an estimate of receipts and expenditure.

4. SOUTH AUSTRALIA.

[*Contributed by* A. J. Hannan, Esq., M.A., LL.B., *State Parliamentary Draftsman, South Australia.*]

During the Parliamentary Session of 1918 thirty-four Acts were passed. Of these four Acts (Nos. 1323 and 1324, 1330 and 1342) are formal measures dealing with Supply, Appropriation, and Redemption of Public Securities respectively, and seven other Acts (Nos. 1325, 1328, 1329, 1331, 1345, 1347 and 1349) are measures either purely adminis-

trative in purpose or entirely local in application and interest. These Acts are not dealt with in the present Summary.

War Measures.—The Constitution Amendment (War Service Franchise) Act (No. 1335), extends the right to vote at elections for members of the Legislative Council to soldiers and sailors and nurses who have been on active service notwithstanding that they do not possess any of the property qualifications heretofore required of all Legislative Council electors. The persons so enfranchised may be enrolled notwithstanding that they may be under twenty-one years of age, or may not have resided in the State for at least six months.

Registration of Deeds Act Amendment Act (No. 1336), authorises the Registrar-General of Deeds to accept copies of deeds for enrolment when written on paper. Previously it was necessary for such copies to be written either on parchment or vellum. The reason for the amendment was the shortage of parchment brought about by the war.

The Advances for Homes Further Amendment Act (No. 1341) extends the privilege of obtaining an advance for the erection or purchase of a home to any unmarried returned soldier or sailor who is about to marry or who has any relative dependent upon him for support. Previously the benefits available to returned soldiers and sailors under the Advances for Homes Acts were confined to married men. The Act expressly excludes from these benefits persons who have not served outside Australia in the war. The fund from which advances are made is increased from £600,000 to £700,000, and the maximum amount that may be advanced to any one person is raised from £600 to £700. Power is given to the Board administering the Act to purchase land and itself erect a house, to be afterwards purchased under the Act by a returned soldier or by the widow or one of the parents of a soldier who has died on active service. A soldier is presumed to have died on active service when he has been reported " missing," or " missing, believed dead," and no further report has been received for six months afterwards.

Houses occupied by returned soldiers or by the widow or parent of a deceased soldier are made ratable by local government authorities, but the rates are to be paid by the Government without reimbursement.

Dentists Act Further Amendment Act (No. 1343) protects the interests of operative dental assistants on active service, by extending the time for passing the examination prescribed by the Act No. 1302 of 1917 as necessary to be passed by such an assistant before he would be entitled to be registered as a dentist.

The Discharged Soldiers Settlement Act Amendment Act (No. 1346) embodies administrative and other amendments whereby the generous provision for soldier settlement made by the Act No. 1313 of 1917 is extended and rendered more effective. The Act gives the Minister of Repatriation power to purchase a single farm with a view to allotting the same to any particular discharged soldier, and authorises him to establish training farms for soldiers. All cool-stores, fruit-packing sheds, shearing-sheds, etc., erected or purchased by the Minister for use on co-operative principles by soldier settlers are to be managed and controlled by a committee appointed by the settlers in the neighbourhood. The cost of the co-operative undertaking is apportioned by the Land Board, in fixing the purchase price or annual rent, amongst the blocks of the settlers benefited.

Before a block of land can be finally allotted to a soldier on lease

or agreement the soldier must have occupied the block on permit for at least twelve months as a probationary period.

The Wheat Harvest (1915–16) Act Further Amendment Act (No. 1353), continues for a further period of one year, and thus makes applicable to the 1918–19 wheat harvest the Wheat Harvest Scheme which came into operation in South Australia shortly after the outbreak of war, by reason of the lack of facilities for transporting Australian wheat to countries outside Australia.

Financial.—The Taxation Act Amendment Act (No. 1337), fixes the income-tax on income derived from personal exertion, after allowing prescribed statutory reductions, as follows: up to £400, 5*d.* in the £; over £400 up to £700, 7*d.* in the £; over £700 up to £1,000, 9*d.* in the £; over £1,000 up to £5,000, 1*s.* 2*d.* in the £; over £5,000 up to £10,000, 1*s.* 7*d.* in the £; over £10,000, 1*s.* 11*d.* in the £; and income-tax on income consisting of produce of property as follows; up to £400, 10*d.* in the £; over £400 up to £700, 1*s.* in the £; over £700 up to £1,000 1*s.* 3*d.* in the £; over £1,000 up to £5,000, 1*s.* 7*d.* in the £; over £5,000 up to £10,000, 1*s.* 11*d.* in the £; over £10,000, 2*s.* 3*d.* in the £.

The amount of income exempt from income-tax is reduced from £200 to £150. In the case of persons on active service the amount of income so exempt is raised to £300.

In making up the income-tax return, if the income does not exceed £550 per annum, £15 may be deducted for every child under fifteen years of age maintained wholly by the taxpayer. In like manner, a taxpayer whose income does not exceed £500 may deduct £100 in respect of every son on active service. Taxpayers are also entitled to deduct from the state income-tax return the amount of income-tax, including war-profits tax, actually paid to the Commonwealth Government in respect of income derived within the State.

A "bachelor tax" of £1 is imposed on all single men and widowers without children, who have not enlisted for active service and whose income is not less than £100 per annum. Any bachelor tax already paid under the Act No. 1317 of 1917 by unmarried men who had been on active service is to be refunded.

The Act makes provision for various minor adjustments consequent on the change introduced in the previous year in the period for the calculation of income for the purpose of income-tax, namely, from the calendar year to the financial year, July 1 to June 30, thus making the year of income the same for both Commonwealth and State taxation purposes.

The Testator's Family Maintenance Act (No. 1327) limits the power of a person to dispose of his property by will. The Act is based on similar legislation in force in New Zealand, New South Wales, Queensland and Victoria. Where a testator dies without having by his will made adequate provision for the proper maintenance and support of his wife and children, the Supreme Court may, upon application by the wife or children, order that such provision as the Court thinks fit shall be made for them out of the estate. The Court is not bound to make an order; and if of opinion that the wife's character or her conduct does not entitle her to any consideration, or on any other ground that the Court thinks sufficient, the Court may refuse to make an order. In cases where the wife or family have, after securing an order in their favour under the Act, obtained from other sources a sufficient income to enable them

to live in comfort, the Court may discharge, vary or suspend its order, and in such circumstances the property included therein will become divisible amongst the beneficiaries named in the testator's will.

Protection of Children.—Act No. 1334 prohibits any child under six years of age taking part in any public entertainment. In the case of any breach of the Act, both the promoter of the entertainment and the parent or guardian of the child are guilty of an offence against the Act.

The Act does not apply to any child under six years of age taking part in any entertainment in aid of any charitable, religious, educational or patriotic object, if the services of the child are entirely gratuitous.

Act No. 1339 enables the superior and inferior criminal Courts to send a child convicted of any crime or offence (other than homicide) to a reformatory for a shorter period than until he is eighteen years of age. The State Children Act, 1895, provided that a child under eighteen convicted of any such crime was not to be sentenced to imprisonment, but might be ordered to be detained in a reformatory until eighteen. There was, however, no power to order detention for any shorter period.

The maximum payment for the maintenance of a child who is a ward of the State by foster parents is increased from 10*s*. to 11*s*. per week.

Workmen's Compensation Act.—No. 1351 increases the maximum amounts of compensation payable under the principal Act (No. 1053 of 1911). Where a workman dies as the result of an injury arising out of and in the course of his employment leaving dependents, the maximum amount of compensation payable is now £400 instead of £300. Where incapacity for work results from the injury the maximum is raised from £1 in every case to 30*s*. in the case of a single man, and £2 in the case of a married man. The employer's maximum liability for compensation in such cases is increased from £300 to £400.

Divorce.—The Matrimonial Causes Act Amendment Act (No. 1356) is intended to simplify and cheapen the procedure in divorce cases. It enables a judge of the Supreme Court, acting alone, to exercise all the powers vested in the Supreme Court in its Matrimonial Causes Jurisdiction, so that now the judge who hears the evidence and determines the questions of fact may himself grant a decree *nisi* for the dissolution of the marriage. Where there is any doubt whether the decree should be granted or refused, the matter may be referred to the Full Court. There is an appeal from the decision of a judge sitting alone to the Full Court.

Previously the practice in this State was that a decree of nullity of marriage was made absolute in the first instance. This Act applies to suits for nullity of marriage the same procedure as for divorce, thus giving an opportunity to intervene to persons who may know reasons why the marriage should not be annulled, and preventing collusion.

Power is given to the Court to vary the marriage settlement when the marriage is dissolved or declared a nullity, even though there is no child of the marriage. Previously this power existed only where there were children of the marriage. The method of enforcing a decree for restitution of conjugal rights is altered from attachment to periodical payments by the husband where the husband is the party in default or settlement of the wife's property or periodical payments by her, where default has been made by the wife. Non-compliance with such a decree

is deemed desertion without reasonable cause, and the other party may forthwith obtain a sentence of judicial separation.

The Crown Solicitor is made *ex officio* Crown Proctor, without the necessity for a special appointment for the purpose of a particular suit.

The Act, with the object of putting the sexes upon an equality as regards matrimonial offences, makes adultery on the part of the husband as well as on the part of the wife a sufficient ground for the obtaining of a divorce.

Compulsory Land Purchase.—The Land Clauses Consolidation Further Amendment Act (No. 1326) provides that the compensation for land compulsorily acquired for purposes of public works shall be assessed on the basis of its value twelve months prior to the giving of notice of intention to acquire the land. In fixing this value, no regard is to be had to any increase or diminution in value arising from the existence or expectation of the particular public work for which the land is required.

The Act also gives to owners of land adjacent to land compulsorily acquired a right to compensation for damage by reason of its being injuriously affected by the construction of the authorised undertaking upon the acquired land.

Harbours.—Act No. 1350 is for the purpose of facilitating the procedure in arbitrations as to the amount of compensation to be paid for the wharves and water frontages recently acquired compulsorily by the Government under the Harbours Act, 1913 (No.1149). It enables the Minister, by making an application to a judge in chambers, to ascertain before the commencement of the arbitration "the principle or basis upon which the amount of compensation has been arrived at by the claimant." The judge who acts as president and umpire in the arbitration can himself, either before or during the hearing, require a similar disclosure both by the Minister as to the amount offered or by the person claiming compensation as to the amount claimed.

Probate.—Act No. 1354 makes several amendments in the principal Act, all of an administrative and machinery character. Two new provisions enable administration to be granted to the attorney of an absentee subject to terms and conditions imposed by the Supreme Court, and make the probate evidence of wills concerning real estate in the same manner as concerning personal estate. The Act was passed to clear up certain inconsistencies and anomalies in the existing Acts with a view to the passing of a consolidating Act.

Local Government.—Two Acts (Nos. 1344 and 1348) make a number of minor amendments in the law regulating local government administration. These amendments cover a wide range of subjects. The more important confer powers on municipal and district councils to regulate by by-law more effectually than at present the erection of signboards and advertising hoardings, to enforce the destruction of weeds and bushes growing on streets and roads, to compel the reinstatement of roads broken up by the carrying out of works by private companies, and to provide sheep-dips for the purpose of disinfecting sheep against tick. The Acts authorises local government bodies, without consulting the ratepayers, to expend up to £50 on the erection of a soldiers' memorial, or to contribute up to that amount towards a fund for such a purpose.

Railways.—Act No. 1332 makes ratable by local authorities buildings belonging to the Railways Commissioner used as a private dwelling by railway employees.

Cremation.—Act No. 1333 enables the Registrar-General of Births and Deaths or his Deputy to issue "cremation permits," and authorises him, for the purpose of issuing such permits, to accept death certificates signed by medical practitioners practising in other States.

Public Health.—Act No. 1338 is an emergency measure, and was designed to cope with a threatened outbreak of Spanish influenza. It enables the Governor to authorise the public health authorities to stop all or any traffic, to isolate persons in any house or premises, or prevent the carriage of any persons in any vehicle.

The Act was used to deal with a comparatively mild outbreak of influenza which occurred shortly after its passing.

Bankruptcy.—Act No. 1340 makes the rejection or annulment by the Court of any composition or scheme of arrangement with creditors an act of insolvency committed by the debtor on the day of the making of the order for rejection or annulment. Previously, under certain conditions, the first meeting of creditors was deemed to be the act of insolvency, but proceedings to have the debtor declared insolvent had to be commenced within one year. Hence if the debtor made default under the composition or scheme more than one year after the first meeting of his creditors no such proceedings could be taken. The new Act is intended to meet this difficulty.

Mines.—Act No. 1352 makes a number of amendments of a technical or machinery character in the law relating to mining. Provision is made for a new class of claim known as "precious stones claims." Previously precious stones were mined for on a mineral claim, but the area of a mineral claim was found to be much larger than was necessary. The maximum term of all mining leases, whether for gold, minerals, coal, oil, salt or gypsum, is reduced from forty-two years to twenty-one years, but leases may be renewed. The class of land over which miscellaneous leases may be granted is extended from "Crown lands," *i.e.* unoccupied land belonging to the Crown, to "mineral lands," *i.e.* lands belonging to the Crown or land out of which minerals have been reserved to the Crown. The labour covenant which the Act requires to be contained in all leases, and which directs what minimum number of men is to be continuously employed on the leased area, may now be prescribed by regulation. Applications for the forfeiture of a mining lease will be dealt with by a Warden as in the case of claims, save that if the Warden decides against the lessee he must forward the evidence and his report to the Minister, who will submit the matter to the Governor.

Fertilisers.—Act No. 1355 is a consolidation of the Acts of 1900 and 1903 dealing with the same subject, with many amendments which the great development of recent years in South Australia in the use of artificial manures as fertilisers has rendered necessary. The object of the Act is to ensure the farmer getting fertilisers of the quality which he has contracted to get.

The Act makes provision for the minimum percentages of the constituents of fertilisers which must be furnished annually to the Chief Inspector under the Act, and given to the purchaser on every invoice as a guarantee to be stated in non-variable terms. The deficiency of phosphate allowable is reduced from 2½ per cent. to 2 per cent. Agricultural lime and gypsum are added to the fertilisers required to be registered and to comply with prescribed standards. Every package containing any fertiliser must be branded with the name of the vendor

or manufacturer, the percentage of the guaranteed chemical constituents, and, in the case of lime and bone manures, the guaranteed percentages of fine material contained therein.

The power of the Minister of Agriculture to publish the results of the analysis of any fertiliser, together with particulars of manufacture and comments on its value, hitherto restricted to the official *Journal of Agriculture*, is extended so as to cover publication in any newspaper. This power of publishing the constituents of a fertiliser with comments on its value as a fertiliser was contained in the Fertilisers Act, 1900, and was found to be a very effective means of preventing and penalising evasions of the Act, so much so that it was never necessary to take proceedings for offences under that Act.

The Act deals very fully with the taking of samples, both before and after sale, by the Inspectors of Fertilisers, and by members of the public purchasing fertilisers, and for the subsequent analysis of samples, and the conduct of prosecutions thereon.

The unit for sampling is fixed at at least 10 per cent. of the packages containing the total quantity of fertiliser which it is desired to test.

5. TASMANIA.[1]

Of the seventy-seven Acts passed in the session begun in 1918, only thirty-four received the royal assent before the end of the year, so that the remainder will be summarised in the next *Review of Legislation*.

Hospitals.—The law dealing with the administration and control of public hospitals and the regulation of private hospitals is consolidated in c. 70. Two public hospitals are provided for under the Act, Hobart and Launceston, and for each is provided a Board consisting of seven nominees of the Governor in Council, one medical practitioner (nominated by the doctors of the hospital district), two nominated by the Municipal Council, and one nominee of the friendly societies. No discrimination is to be made between patients. The Board has power to remit or postpone payment of fees, and no one is to be refused admission on account of inability to pay. No private hospital is to be opened except with the permission of the Chief Health Officer, and the superintendent must be a medical man or a certified nurse or midwife. In private hospitals a register must be kept of the patients, and the doctors attending. The Chief Health Officer may hold an inquiry at any time into management of a private hospital, and revoke the licence. Ss. 76–78 deal with the arrangements between the Government and local authorities in case of infectious diseases. The law is mainly based upon New Zealand legislation, with a few additions from Australian Acts.

Unclaimed Moneys.—No. 13 covers all unclaimed moneys, which must be paid into the Treasury after a lapse of six years. A yearly register of such moneys must be kept by companies, and a copy published in the *Gazette*. All moneys not claimed within twelve months of publication must be paid into the Treasury; but such moneys may be reclaimed upon sufficient proof.

Public Health.—No. 9 strengthens the original Act in reference to venereal diseases. Drugs commonly used for the disease may be supplied only by registered pharmaceutical chemists on a medical man's prescrip-

[1] Based upon the *Legislation Digest* issued by the New South Wales Premier's Department.

tion. If the patient suffering from disease intends to marry, information may be given to the other party through the Chief Health Officer.

Water Carriage.—No. 7 deals with conditions which might not be included in bills of lading and with contracts for the carriage of passengers. The Commonwealth Act of 1904 deals with water carriage between States and from the Commonwealth to ports outside. The present Act gives local effect to Commonwealth legislation. Its general design is to prevent shipowners from contracting themselves out of their responsibilities with regard to carriage of goods and passengers. S. 12 provides that a shipowner shall not insert in bill of lading any clause declared by the present Act to be illegal, under a penalty of £100.

Fruit Standardisation.—No. 21 applies to shipments of pears and apples to other States, but not overseas. No one shall pack for export unless the case is branded with the grade of fruit, the number of fruit in a case, the varieties of fruit, and the name and address of the person or firm exporting. A Board of seven, representing fruit-growers and the Department of Agriculture, is to be appointed by the Minister each year, to decide the standards and make regulations. Provision is made for the appointment of inspectors.

Children of the State.—No. 15, cited as the "Children's Charter," deals with the problem of juvenile offenders and neglected children. Under the previous law, the State was hampered by a narrow definition of "neglected children." The Act widens the definition, and brings all neglected children, up to the age of seventeen, under the Children of the State Department. Part 5 deals with Children's Courts, consisting of one or more special magistrates. Probation officers may be appointed to supply the Court with information and to assist the children. The public are excluded from the Children's Courts. Near relatives of any child of the State are liable to contribute towards its maintenance. Homes receiving children and foster-mothers must be registered.

Veterinary Surgeons.—No. 34 regulates the practice of veterinary surgery, by the establishment of a Board of three members, of whom one is to be a veterinary surgeon, to register qualified men and to de-register, also to grant certificates of competency to persons possessed of a certain amount of skill and veterinary knowledge.

Tramways.—No. 6 empowers the Minister of Lands to lease certain Government tramways. Power is given to the Minister to appoint officers to inspect the tramways during the term of the lease. Power is also given to the Governor in Council to make and extend railway and tramway regulations.

State Securities.—No. 8 amends and consolidates the law relating to loans, stock, debentures and Treasury bills. Provisions are made which will apply to every Act passed in future authorising the Treasurer to raise money. The chief object of the Act is to provide in the future for "serial" debentures, that is, debentures issued in a series which include a certain proportion of principal with interest added.

Footwear.—The main purpose of No. 5 is to prevent adulterated matter being used in manufacture of footwear. Soles must be made of solid leather, or, if not, stamped with the name of the material used. Boots must also be stamped with the name of the manufacturer. No weighting material may be put into the leather. Power is given to inspectors to enter any place where boots and shoes are manufactured or sold. Six months are allowed in which to get rid of existing stocks.

Midwives.—No. 10 amends the Act of 1911, and sets up a Registration Board, consisting of the Chief Health Officer, a nominee of the Medical Council, and a certificated midwife, to control the work hitherto carried out by the Medical Council. The Board has power to remove from the register the name of any midwife proved to be incompetent. The fact that a woman, not a certified midwife, attends another woman in childbirth otherwise than under the direction of a qualified doctor, is *prima facie* evidence that she so attended for gain, unless there is proof to the contrary. S. 5 provides that every midwife shall furnish to the clerk of the Municipal Council concerned, within forty-eight hours, a report of every case attended, stating the name and address of the mother, and the clerk must furnish a report to the health officer.

6. VICTORIA.

[*Contributed by* His Honour Judge Zichy-Woinarski, K.C., *and* W. Harrison Moore, Esq.]

First Session, Twenty-fifth Parliament: Acts passed—18.
Second Session, Twenty-fifth Parliament: Acts passed—50.

Interpretation of Statutes.—Acts Interpretation (War Service) Act (No. 2960) provides that, in any Act passed since the commencement of the war, any reference to the navy or army or naval or military forces or service shall include the air forces and service therewith; and any reference to His Majesty's Allies shall include countries acting in naval or military co-operation with His Majesty in the war.

Wheat.—Wheat Marketing Act (No. 2969) continued and extended the operation of the Wheat Marketing Acts, 1915, which had applied to the harvest of each year since 1915, and was by this Act (assented to December 31, 1918), extended to the season 1918–19.

Wills.—Wills (War Service) Act (No. 2954) aims at securing for the wills of "soldiers in actual military service and mariners or seamen being at sea" the full benefit of exemption from the restrictions and limitations of the Wills Act, and follows generally the lines of the Wills (Soldiers and Sailors) Act, 1918, of the British Parliament. (See *Wernher* v. *Beit* [1918] 1 Ch. 339.)

Savings Bank.—States Savings Bank Act (No. 2991) enables the Bank to co-operate with the Commonwealth in providing houses for Australian soldiers and their dependents, or making advances to such persons.

Settlement of Discharged Soldiers.—By the Discharged Soldiers' Settlement Act (No. 2988) power is given to the Board to make the same advance to discharged soldiers as, under the Closer Settlement Act, a soldier is entitled to, viz. £1,000: consisting of an advance of £500, and, after the settler has been on the land for six years, an increase up to £1,000 on the basis of 60 per cent. of the improvements effected, and 60 per cent. on the capital he has repaid. There was a doubt under the principal Act if it provided the same privilege for discharged soldiers, and this section settles that doubt in their favour. S. 4 enables the Board to deal with improved farm purchases on an approach to equality with unimproved farm purchases by separately valuing the improve-

ments and treating them as to the whole or a portion thereof as either an advance or as part of the capital value.

The rate of interest on advances fixed by the principal Act at 3½ per cent. could by that Act be conceded to a discharged soldier for any period not exceeding three years, and it was held that that concession was unalterable, and by the present Act (s. 5) this concession may be reduced or discontinued where a covenant or condition of the lease is not complied with.

S. 6 gives power to the Board to make improvements on blocks for settlement during the whole currency of the lease and not during the first three years only.

S. 9 enables the Minister to direct that an offer be made for a property at a value lower than that fixed by the Board.

S. 10 increases the power to raise money for the purposes of the Act, fixed by the principal Act at £2,250,000, to £4,000,000.

S. 11 makes an important change in s. 36 of the principal Act by permitting the Board to make advances up to £250 to discharged soldiers who take up leaseholds. Advances up to £500 may also be made to soldiers who own their own land or are about to acquire land of their own for the purpose of improving the land or purchasing stock or implements (*ib.*).

The power of the State Savings Bank to make advances to erect houses for "discharged soldiers" is by s. 12 to include certain nurses of the Commonwealth Army Medical Corps Nursing Service.

S. 14 empowers the Board to purchase building material, implements, seed, plants, etc., in advance of the disposal of the land.

S. 15 sets forth the persons before whom statutory declarations may be made by discharged soldiers, as to matters required or authorised to be verified, and is to save the soldier settlers vexatious delay and expense.

S. 16 gives the Governor in Council power, in exchange for other Crown land, to excise certain forest lands for the disposal thereof to discharged soldiers applying therefor. The value of any Crown land in any area set apart for disposal to discharged soldiers is to be determined by the Governor in Council before the land is disposed of (s. 17).

S. 18 empowers the Governor in Council to raise moneys by the issue of stock or debentures to recoup the Board for concessions granted to soldier settlers, or for loss of interest or land between the date of acquisition and the date of disposal.

S. 19 establishes a Discharged Soldiers' Concession Fund in the Treasury, and to its credit there is to be paid in each financial year the sum of £50,000 out of the consolidated revenue, all moneys received by the Board in repayment of principal or interest, and all moneys received from the Government of the Commonwealth in respect of concessions. The Fund is to pay the interest on stock and debentures issued under the Act and their redemption also, and thereafter the amount equivalent to the value of the Crown lands.

S. 20 applies the Public Account Advances Act, 1910 (No. 2277), to the Discharged Soldiers Settlement Acts, and s. 21 gives the Governor in Council power to set apart certain Crown lands for disposal to discharged soldiers at not more than the market value.

Venereal Diseases.—Venereal Diseases Act (No. 2994) mainly strengthens the authority over those afflicted with venereal disease, enabling the principal Act to be more stringently administered. Some new matter

is also enacted, as *e.g.* s. 7, which requires a medical practitioner who has reason to believe that a patient suffering from venereal disease intends to contract marriage, notwithstanding the patient has been warned, to notify such belief to the medical inspector, and thereupon the latter is required to inform any person whom on reasonable grounds he believes to be the other party to the proposed marriage that the patient is suffering from such disease or to give the like information to any parent or guardian of such party. The prohibition of the principal Act against any person not a medical practitioner treating a patient is made more stringent by s. 3 of the present Act, which prevents a person free of the disease from getting medicines for an infected person. The requirement of the principal Act on every person suffering from venereal disease consulting a medical practitioner and giving his correct name and address is amplified to give to the medical officer in charge of clinics at the hospital or other appointed place the name and address so as to enable the patient to be followed in case he make away from treatment before he is clean (s. 4). Inasmuch as a practice had sprung up of women who had had venereal disease and who had been cured of it, or who had a certificate of being free of it, handing over the certificate to prostitutes, s. 8 forbids the giving of any certificate of cure, or of being free from venereal disease, to any woman or girl who is a prostitute, or who occupies, resides in, or habitually visits a brothel or any house or place used for the purpose of prostitutes, and it also fixes a penalty of £50 on any person who makes use of any such certificate for the purposes of or in relation to or in connection with prostitution.

Power is given by s. 9 to the Children's Court if it suspects, in any case, that any child taken or brought before it is suffering from venereal disease, to order an examination of the child, and to notify the medical inspector if a medical practitioner reports that the child is suffering from it, and thereupon the medical inspector may order the child's detention if advisable.

In s. 10 power is given to remove persons under detention from one appointed place to another, and in s. 11 power is given, in the case of a "voluntary patient" undertaking not to leave an appointed place till cured, to detain him in that or some other appointed place.

A prisoner detained for treatment for venereal disease after the expiration of his sentence is to remain under gaol discipline (s. 2), and persons detained in hospitals or other appointed places are to be subject to the disciplinary regulations (s. 14). It is made an offence for any person detained to leave the place of detention without authority and punishable with a maximum fine of £50 or six months' imprisonment (s. 13).

By s. 15 power (not given by the principal Act) is given to retake and detain any person who has escaped from detention.

By s. 16 the protection given to medical practitioners in respect to their certificates is extended to communication of notification by them to medical inspectors.

By s. 17 a penalty of £50 or six months' imprisonment is imposed on any person who publicly or privately, orally or in writing, directly or indirectly states or intimates that any medical practitioner has given or sent with respect to any other person any notice pursuant to the Acts to the medical inspector or to such other person, or that any other person has been examined or otherwise dealt with under the said Acts,

and whether such statement or intimation is or is not true; excepting, (*a*) communications or disclosures in good faith to the medical inspector for his information in carrying out the said Acts; (*b*) communications or disclosures to a medical practitioner or in the course of consultations for treatment for venereal disease; (*c*) communications authorised or required to be made by the said Acts or regulations thereunder; and (*d*) communications or disclosures made in any court of law.

Power is given in s. 18 for the medical inspector, with the Minister's consent and notwithstanding any law to the contrary, to cause the distribution and exhibition of information relating to venereal disease in such places and by such persons and in such manner as is thought fit; and the Governor in Council may make regulations providing for or permitting the preparation, publication, exhibition (whether in print or by pictures, films or cinematograph displays or otherwise), and distribution of information relating to venereal disease.

Public Health.—By the Health Act (No. 2975) the chairman of the Board of Health may declare any area to be an infected area, and no person may leave such area until the chairman is satisfied that such person is not liable to convey any dangerous, infectious or contagious disease. The chairman may take such steps as are necessary to prevent any person unlawfully leaving such area or to enforce the return of such person or to secure his isolation in some other place.

Local Government.—The Local Government Act (No. 2981) makes various amendments in the general Act of 1915. S. 6 carries further a right of user of private property in connection with public works. Under the Local Government Act, 1903, a municipal council could enter upon any land (not being land occupied as part of the amenities of a dwelling) and take therefrom any material required for its works, subject to the payment of compensation for damages sustained, and subject to the obligation of fencing so as to make the place safe. By s. 6 of the present Act, a municipal council may, during the progress of any work, enter any land (subject to the same limitations) and occupy the same for the purpose of stacking, breaking or crushing stone, merely paying to the owner compensation for any damage he may sustain.

Ss. 8 to 20 contain interesting provisions for a submission to referees of "doubts, differences or dissatisfactions" (s. 11) in respect of matters for which provision is made by by-laws for regulating and restraining the erection and construction of buildings or hoardings (s. 8). Two referees qualified as architects, engineers or surveyors (of whom neither may be a member or officer of a municipal council) may be appointed, one by the Governor in Council, the other by the municipal council. They have, for the purposes of the Act, the powers of arbitrators under the Arbitration Act, 1915, and their competence extends to any matter of dispute under the by-laws, whether between any parties concerned, or between any party and the municipal surveyor. The reference shall be made on the demand of either party. Power is also given to entertain a complaint, in the case of any particular building proposed to be altered or erected, that with respect to such building any provision of the by-laws is inapplicable or will "needlessly affect with injury the course and operation of business, or will defeat the objects of such by-laws, and that by the adoption of a modification of such provisions such objects will be attained either better or as effectually." In such a case the municipal surveyor and the referees, if they

are of opinion that the objection is well founded, may direct such modification of the provisions of the by-law as will give effect to the purposes thereof. Awards of the referees shall, by leave of the Supreme Court or a judge thereof, be enforced in the same manner as a judgment or order of the Court.

Electricity.—The Electricity Commissioners Act (No. 2996) establishes a body corporate entitled " The Electricity Commissioners " to inquire into and report to the Government as to (1) the steps which should be taken " to secure the ultimate co-ordination or unification of all state or other electrical undertakings in Victoria, and to secure the adoption of such standards of plant and equipment, and of system frequency and pressure for the generation, distribution and supply of electricity as will admit of the efficient inter-connection of such undertakings and interchange of electricity throughout the same, and generally the safe, economical and effective supply of electricity throughout Victoria, and to secure the amalgamation or concentration of such undertakings " ; (2) the prospects of establishing in Victoria new industries requiring large quantities of cheap electrical energy (s. 11).

The powers and duties of the Commissioners also include the encouragement and promotion of the use of electricity, especially for industrial and manufacturing purposes ; the carrying out of investigations, surveys, explorations and borings to ascertain the existence, nature and extent of coal-deposits or of water-power suitable for use in connection with the generation of electricity, and the ascertainment of suitable sites for generating stations ; and the carrying out of investigations as to the safest, most economical and effective means for promoting, establishing and extending and improving works for the generation, distribution, supply and use of electricity throughout Victoria, and particularly for industrial and manufacturing purposes (s. 11). The Commissioners may construct and maintain electrical works and supply electricity, and " in connection with any such undertaking carry on any business usually associated with such an undertaking " s. 12) ; and they are to prepare a scheme for a coal-mining and electrical undertaking to be established at Morwell (ss. 10, 13), where there are large deposits of brown coal ; and the Commissioners may open and operate state coal-mines (s. 26). The Government, on the recommendation of the Commissioners, may make regulations (*a*) prescribing things to be done " to secure the ultimate co-ordination or unification of all state or other electrical undertakings in Victoria, etc." (as above) ; (*b*) prescribing the precautions to be taken by undertakers of the supply of electricity or by any body working electric tramways to prevent injurious electrolytic action. Government regulations may also require that anything prescribed by or under this Act shall be done in such manner as the Commissioners approve, either generally or in particular cases ; and may provide for appeals to the Commissioners on the ground that " any such regulation will involve unreasonable expense or unreasonably prejudice the commercial prospects of the undertakings " ; and may provide for the settlement by the Commissioners or by an arbitrator appointed by them of disputes between undertakers of supply and other parties arising out of the regulations.

The Act is remarkable both for its comprehensive operation in respect to the whole electrical industry and for the administration it sets up. Abandoning the familiar method of administration through a Department

of Government consisting of a Minister and a graded clerical staff forming part of the "public service," the Act sets up three Commissioners who corporately exercise executive and administrative powers over the matters committed to them, though subject in some respects to the veto of the Government. The Commissioners themselves have been selected for scientific, technical and business knowledge and experience; their tenure is assimilated to that of the judges, for during their term of office —which is fixed at seven years, subject to renewal—they hold during good behaviour subject to liability to removal on the address of both Houses of Parliament. The Commissioners have the very important power of selecting their own staff. It will be noticed, further, that the powers of the Commissioners combine the legislative, the executive and the judicial functions in a manner which our Courts are beginning to recognise as distinctively "administrative"; they make regulations, laying down under penalty what shall and shall not be done in certain conditions of fact, and they determine in particular cases whether the facts have arisen and whether what has been prescribed has actually been carried out. Parliamentary control is retained through finance—save as otherwise provided all moneys expended under the Act are to be out of money provided by Parliament, and money payable to the Commissioners is received on account of the consolidated revenue. An annual report is to be presented, which is to be laid before Parliament by the Minister.

Forests.—From the year 1907 there has been in Victoria a Department of Forestry, under a Minister and administrative staff, and with a Conservator of Forests and forest staff responsible to the Minister. Act No. 2976 incorporates a Forest Commission, consisting of three Commissioners, with a status and tenure similar to that of the Electricity Commissioners, save that five years is substituted for seven; and, like the Electricity Commissioners, the Forest Commission appoints and controls its own staff. The Commissioners and their staff alike are outside the Public Service Acts and the control of the Public Service Commissioners, an illustration of the growing recognition of the need for a service with special qualifications and a greater flexibility in organisation than is provided by a general public service system. The principal functions of the Commission are described in sections 14 to 17 of the Act. It has the control and management of state forests and plantations, nurseries, forest schools, and industrial undertakings carried on under the Forest Acts, and of the forest produce of other Crown lands; the establishment, maintenance and renewal of forests, the distribution of trees therefrom, and tree-planting on Crown lands and public roads where such planting is subsidised from the public revenue, or the Forestry Fund or by gifts of trees from the Government or the Crown.

Amongst other things, the Commission is charged with the advancement of forestry generally, the encouragement of tree-planting on private and municipal land, the training of forest officers and the conduct of research work and the collection of statistics in connection with forestry. It is, within a period of five years, to frame working plans with respect to the control, maintenance, improvement and removal of forest produce in and from each state forest. Financial provision is made by the Act itself. An account called the Forestry Fund is to be opened at the Treasury, and to be credited with £40,000 per annum out of the consolidated fund which is by the Act appropriated for this purpose; and

further provision is made by assigning to the fund half the amount by which in any year the gross forest receipts exceed £80,000. The fund is to be available as the Government, on the recommendation of the Commission, directs, but the salaries of the Commissioners are specially appropriated. The Commission is charged with the duty of preparing annual statements showing its receipts and disbursements during the preceding year, its estimates of requirements for the forthcoming year and a report of its proceedings on various matters prescribed during the preceding year. These statements and report are (apparently) to be presented by the Commission directly to Parliament. The independent position assigned to the Commission, and the distinctive type of administration set up, is evidenced by the fact that it is considered necessary (following the model of the Railways Act, 1915, s. 100) to make express provision requiring the Commission to furnish the Minister with any information called for by the order of either House of Parliament, or to enable the Minister to answer questions or furnish returns, or to enable the Minister to satisfy himself; and that the Crown shall furnish the Minister with fit and convenient offices, and with such assistance as he requires (s. 37).

Tramways.—The Melbourne Cable Tramways system was established between 1883 and 1893 by the co-operation of several municipal councils and a tramway company. The councils constituted a Tramway Trust and undertook the construction of lines of tramways and of a power-house; the company found the rolling stock and all working requisites. A thirty-two years' lease was granted by the Trust to the company. By this lease the company paid to the Trust an amount equal to the interest upon the loans raised, and a sufficient sum as a sinking or redemption fund to repay by its accumulation the principal of the loans raised by the Trust; and, on the expiration of the lease, the company was bound to hand over the lines in good order to the Trust. Since 1900 many additional tramways in the environs of Melbourne have been constructed by the co-operation of the municipalities severally concerned; and in these cases the tramways are owned and worked (by electricity) by Trusts constituted of the municipalities themselves. On the expiration of the Melbourne Tramway Company's lease in 1916, there was much discussion and conflict as to the public authority in which the tramway undertakings should be vested, and there was a conflict between the claims of the Government and of the municipalities. The Melbourne and Metropolitan Tramway Act, 1918 (No. 1995), is the outcome; it can hardly be called a settlement, since it provides that the constitution of the Board (set up by the Act) shall be reviewed by Parliament before the expiration of six years, and in case it is not so reviewed provides only that the Board shall remain as constituted by the Act until the end of the next ensuing session of Parliament (s. 10).

The undertaking and property of the Tramway Company, and of the Melbourne Tramway Trust alike, are vested in a Tramway Board, which also takes over the property and undertakings of the several suburban trusts above referred to. The Board is to control, manage, operate, and maintain these undertakings. Future construction is provided for by requiring the Board as soon as practicable to prepare a general scheme of development for the tramway service of the metropolis. This scheme, when prepared, is to be referred by the Minister to the Parliamentary Standing Committee on Railways, whose report on the scheme

shall be taken into consideration by the Board before the final adoption of the scheme (s. 34). The scheme may be revised from time to time, and a similar procedure applies to any revision. Apart from such a general scheme, no tramway is to be constructed without express parliamentary sanction. Both in the case of the general scheme and of any particular scheme, the Parliamentary Standing Committee is required to take into consideration the effect on the railways revenue likely to arise from any new tramway, and may make any recommendation thereon (the railways are owned and operated by the State) (s. 36).

The Board has borrowing powers up to £750,000, and may re-borrow up to that maximum as loans are paid off (s. 26). Its loans are made trustee investments. The Board is required to establish a "renewals reserve" for renewals, reconstructions or conversions, and a "general reserve" mainly for providing for the cost of converting cable into electric tramways or altering gauge, and for meeting any deficit. It may establish also a "maintenance reserve." The Board carries to these reserves such amounts as it thinks fit, but so that they shall not be less than 4 per cent. nor more than 6 per cent. on the capital cost of the undertakings (s. 24).

The tramways revenues are charged with certain burdens (s. 88), viz. the contribution hitherto paid by Government to the Queen's Memorial Infectious Diseases Hospital and to the Metropolitan Fire Brigade Board, and in favour of each municipality concerned, an amount equal to the amount payable to such municipality of the Licensing Fund (Licensing Act, 1916, s. 44). If in any year there is a surplus after those burdens and redemption and interest charges have been met, the Board, subject to a right to carry £10,000 to the credit of the following year, is required to distribute it among the municipalities interested; but all sums received by the municipalities on that account are to be applied only to such purposes as the Governor in Council approves.

"In connection with and as part of any of its tramway undertakings," the Board may acquire lands to be used as "gardens, or parks, or places for the recreation, convenience or amusement of the people" (s. 62). It may also supply electric light for lighting the roadways upon which the tramways run (s. 66). The State itself undertakes the supply of electric power, the Board is put under an obligation to obtain from the State power to meet any additional requirements, and until such time to have recourse to the power supply of the Railway Commissioners (s. 67).

By s. 56 members of Parliament are given a statutory right of free travelling on the tramways, similar to that already enjoyed by them on the railways.

The Board is to consist of seven members appointed by the Governor in Council. The chairman holds office for five years, is paid a salary of £1,500 per annum, and is required to devote his whole time to the duties of his office. The other members are appointed for three years, and are paid by fees, not to exceed for each member in any year £120. The Board controls the *personnel* of the tramway service, but may not appoint any officer or servant at a salary of more than £1,000 per annum without the consent of the Governor in Council (s. 17(2)). The following provisions affecting officers and servants are of interest: (1) the Board is to observe the conditions as to remuneration imposed by a State Wages Board, or the Commonwealth Arbitration Court, or by any industrial agreement under Commonwealth or State legislation; (2) there is to

be an Appeal Board, consisting of one person appointed by the Tramways Board, one appointed by the employees, and a chairman appointed by the Governor in Council, to hear appeals against dismissals, fines, deductions from wages, reductions in rank, grade, or pay, and to hear appeals against promotions being unreasonably withheld (s. 17); (3) the Board may establish a "guarantee fund" against losses through the acts or defaults of its servants, and also an employees' "superannuation fund," and the Board may contribute to these funds such amounts as it thinks fit, and may deduct from the salary or wages of employees such sums (if any) as they are required by the by-laws to pay into these funds respectively.

Highways.—An Act (No. 2986) for amending the Country Roads Act, 1915, in various respects, particularly by increasing the salaries of the members of the Central Board, and by enabling the Board to reduce the amount of the contribution of municipalities for the maintenance of a main road in any case where it appears that the cost of maintenance is excessive, and is due to motor traffic not of local origin or to timber traffic.

In 1915 an Act established the Country Roads Board, a central authority for constructing and supervising the maintenance of main roads in the State. Act No. 2944 extends the activities of the Board to any road which in its opinion is of sufficient importance, and will serve to develop any area of land (whether alienated from the Crown or not) by providing access to a railway station or to a main road leading to a railway station. The Act contemplates an expenditure of £100,000 per annum for five years, and establishes a scale of contribution towards interest and redemption by the municipal districts benefited. The maintenance of the developmental roads is cast on the municipal councils, and must be carried out to the satisfaction of the Country Roads Board, which has power of action in cases of default, The provision made by this Act is extended by Act No. 2985, under which the Government may borrow and expend during each of the periods of five years beginning on January 1, 1919, 1920, 1921 an additional amount not exceeding £500,000 for the purpose of developmental roads.

Real Property.—The Real Property Act, 1918 (No. 2962), with the exception of s. 12, makes certain amendments affecting the general law which were recommended by the Royal Commission on Land Transfer Acts which investigated the English law in 1911, and certain other amendments, all of which were embodied in a Bill which was introduced into the House of Lords in 1914.

The necessary definitions are set forth in s. 2.

S. 3 gives effect to one of the reforms recommended by the said Commission, that where real estate is conveyed by deed without any words of limitation or any equivalent expression, such conveyance shall pass the fee simple or other the whole estate or interest which the conveying party had power to dispose of, unless a contrary intention appears.

By sub.-s. 2 an assurance "to A (without words of limitation) to the use of B and his heirs" is made equivalent to an assurance "to *A and his heirs* to the use of *B and his heirs.*"

By sub.-s. 3 an assurance "to A and his heirs to the use of B" is made equivalent to an assurance "to A and his heirs to the use of *B and his heirs.*"

Under sub.-s. 4 a corporation may stand seised of lands to uses within the Statute of Uses "as if the disposition had been made to a natural person to the same use."

Sub.-s. 5 varies the rule of construction that a conveyance "to a corporation sole" without adding "and his successors" will pass an estate for life of the then occupant only by providing that it is to pass the fee simple or other the whole interest of the person conveying.

S. 4 adopts a number of provisions having for their object the removal of difficulties connected with the execution of instruments by corporations.

Before this Act the manner in which the seal of a corporation was to be affixed to deeds varied, in the case of trading companies according to what was prescribed in the articles of association, and in the case of other corporations according to the particular method prescribed by the rules of the corporation and by statutes. A person dealing with the corporation or claiming title under a deed executed by a corporation was under the obligation of satisfying himself that the deed in question had been appropriately executed. Sub.-s. 1 relieves him of this obligation by making it lawful for every corporation to execute deeds by affixing its seal in the manner set forth, viz. in the presence of the secretary and one director, and making that method sufficient in favour of a purchaser if the seal appears to have been affixed in that manner.

Sub.-s. 2 deals with the execution of agreements and instruments *not* under seal, and enables the directors or governing body by resolution or otherwise to appoint a person to execute such agreements or instruments.

Sub.-s. 3 enacts a positive rule with respect to the execution by an attorney for a corporation of a conveyance of land belonging to the corporation. It gives validity to the execution by the attorney where he executes by signing the name of the corporation in the presence of at least one witness and in the case of a deed affixes his own seal.

Sub.-s. 4 regulates the execution of deeds by corporations where the corporation executes as an attorney under power of another person or corporation—authorising an officer appointed for that purpose by the board of directors or other governing body of the corporation, by resolution or otherwise, to execute the deed or other instrument in the name of such person.

Sub.-s. 5 prevents any retrospective operation of the section, and sub.-s. 6 permits any mode of execution or attestation authorised by law. or by the statute, charter, memorandum, or articles, deed of settlement or other instrument constituting or regulating the affairs of the corporation to be effectual.

S. 5 confers on persons who are tenants intail in possession to dispose of the land by will for an estate in fee simple. Hitherto a tenant intail in Victoria could only dispose of the fee simple by a disentailing assurance during his life-time. As estates tail cannot now be created in Victoria, and the number of existing estates tail is not large, this section cannot have any great effect in Victoria.

S. 6 deals with the effect of conveyance or sale by mortgagee by sub-demise. Having regard to the existing conditions of land tenure in this State, this section will not be of such benefit as in England, where leaseholds rather than freeholds are the common form of holding. Where leaseholds are mortgaged the transaction is commonly effected by the

grant of a sub-lease to the mortgagee, and in order that the mortgagee, in the event of his exercising his power of sale, may be able to vest in the purchaser not merely the sub-term granted to him, but the whole of the term vested in the mortgagor, the mortgagor in the mortgage declares himself a trustee of the leasehold reversion for the mortgagee and covenants to assign it as the mortgagee directs. This section makes it unnecessary to get in this nominal reversion from the mortgagor if and when the mortgagor sells, by providing that the conveyance of the mortgage term is to operate to convey also the nominal reversion. Special provision is also made in sub.-s. 2 for the cases therein mentioned.

S. 8 deals with transfers of mortgages. The short form for the transfer of mortgages provided in the Conveyancing Act, 1915, is limited to mortgages made in the statutory form therein provided. This section 8 makes the short form of transfer available for use in the transfer of every class of mortgage except transfer of a bill of sale of chattels by way of security or a transfer of a mortgage under the Transfer of Land Act, 1915.

A very useful provision is found in s. 8, viz. that a receipt under seal, a form of which is contained in the Schedule to the Act, endorsed on a mortgage, is made equivalent to a reconveyance. This privilege has been in operation in the case of all mortgages to Building Societies, Industrial and Provident and Friendly Societies, and its general extension had been recommended by the Royal Commission of 1911. The provisions of this section are not to apply to the discharge of a mortgage or charge under the Transfer of Land Act, 1915.

Provision is made enabling an infant to be maintained out of income under s. 34 of the Trusts Act, 1915, when the infant is only entitled contingently on his attaining twenty-one years (s. 9).

Provision is also made empowering the Court to modify or discharge restrictive covenants affecting land in those cases in which the Court is satisfied that by reason of changes in the character of the property or neighbourhood the restriction has become obsolete, or the Court is satisfied that the persons of full age entitled to the benefit of the restriction have agreed to the same being discharged (s. 10).

One important provision is as to the validation and variation of certain testamentary gifts void for remoteness. Gifts by will which under the present law are void because the attainment of an age exceeding twenty-one years is prescribed are validated, and the will is to take effect as if the age prescribed by the will had been twenty-one years (s. 11).

Lastly, the Act abolishes the disability of " absence from Victoria " as respects the Statutes of Limitations relating to the recovery of land. This follows a reform made in England as far back as 1874, when " absence beyond seas " was then abolished as a disability in England (s. 12).

Land Transfer.—The Transfer of Land Act, 1918 (No. 2966), is a short measure, and one of its sections removes a difficulty in the transfer of land by enabling any person interested, when a duplicate lease, mortgage or charge has been lost or destroyed, to apply for the issue of a certificate of lease, mortgage or charge without waiting, as had previously been necessary, until a transaction with the missing lease, mortgage or charge had been lodged for registration in the Titles Office. The Commissioner is empowered, when he is satisfied as to such loss or destruction, to issue a certificate in place thereof; and the Commissioner may make its

issue subject to such terms as to advertisement, notice, indemnity or contribution to the assurance fund as he thinks fit. Upon the issue thereof the registrar endorses on the original lease, mortgages or charges a memorandum of such issue (s. 2).

The enforcement of writs of *fieri facias* against land under the principal Act 1915 is extended to writs of *fieri facias* issued out of the Court of Insolvency (s. 3).

Another section provides machinery for the registration of property belonging to the State which has become vested in the Commonwealth of Australia by virtue of the Commonwealth Constitution Act. The Commonwealth had acquired the land, but to effectuate the title it was necessary to register the Commonwealth in the Titles Office as the proprietor of the land, and so s. 4 now provides for an application being made to the Registrar and for the consent thereto of the Attorney-General of Victoria and for the registration of the Commonwealth as the proprietor of the land (s. 4).

Provision is also made for giving effect on the register to dispositions of land effected by statutes other than the Transfer of Lands Act, or under powers contained in such statutes. For example, the Hospitals and Charities Act provides that the property vested in the trustees of a charity shall, upon incorporation of the charity, become vested in the corporation, but where such trustees are registered as proprietors of land under the Act no provision has been made for recording the disposition to the corporation in the register-book; and other Acts contain similar provisions, but with no machinery or authority for recording such disposition in the register-book, and all these cases of disposition "off the register" are now provided for (s. 5).

Justices.—The Justices Act, 1918 (No. 2967), amends the Justices Act 1915. It gives power to the Governor in Council to make rules altering the forms in the Schedule to the principal Act (s. 2). To clerks of petty sessions it gives power to take and receive any information for any offence or cause in which Courts of Petty Sessions or justices have jurisdiction; to issue summonses whether for defendants or witnesses in any case or proceeding cognisable by any Court of Petty Sessions or justices, and for such purposes (when necessary) to administer such oath as is required by law, and, after a case has been heard and determined or a conviction obtained, to issue the necessary warrant of distress or commitment, and it covers the clerks in the doing of such acts with the same protection that the principal Act gives to a justice of the peace doing similar acts (s. 3).

Summary proceedings are authorised to be taken in the nearest Court though not in the same bailiwick (s. 5).

Under the principal Act where a Court of summary jurisdiction convicts or makes an order, a minute or memorandum had to be made for which no fee was paid and the conviction or order had to be drawn up in due form, lodged with the clerk of the peace at the nearest place where a Court of General Sessions was held, and filed by and preserved by him. In practice it was found that a strict adherence to this in all cases, whether there was an appeal or not, meant a great deal of unnecessary work and much waste of paper, etc., and so the Act alters that procedure and requires, in lieu thereof, a minute or memorandum to be made, and, if any one of the adjudicating justices so directs, or the defendant or complainant so requests, the conviction or order

shall afterwards be drawn up and be lodged as under the principal Act. A copy of the minute or memorandum signed by the clerk of the court is made *prima facie* evidence of the conviction or order (s. 6).

Power is conferred to arrest persons accused of offences punishable summarily who have been admitted to bail before conviction or discharge and who are suspected of an intention to abscond (s. 7). Power is also conferred on a justice or clerk of petty sessions to reduce *pro rata* a term of imprisonment for non-payment of a fine or other sums in default of distress or payment of portion of the fine or net proceeds of the distress (s. 8).

The necessity, under the principal Act, for the clerk of petty sessions to keep a debt attachment book is removed (s. 9). Chairmen of Courts of General Sessions are now relieved from the necessity of stating a case —specially for the determination of the Supreme Court—whenever asked by appellant or respondent on appeals heard and determined by them from conviction of Courts of Petty Sessions, and they are given, instead, a discretionary power to do so; and if the Chairman declines in any case to state a case power is now given to the Supreme Court to order him so to do (s. 10).

Lastly, the criminal jurisdiction of Courts of General Sessions is enlarged to include the trial of unnatural offences and offences of abduction or defilement of women and girls (s. 11).

Gaols.—The Gaols Act 1918 (No. 2980), deals mainly with the employment of certain classes of prisoners, enabling them to be employed and not kept in idleness, and to be paid for their work so that they may pay for their maintenance in the gaol and also for that of their wives and families outside.

It provides that the Inspector-General may cause any male prisoner committed with or without hard labour or for non-compliance with maintenance orders, or for maternity expenses under the Marriage Act, 1915, or under the Neglected Children's Act, 1915, or under the Imprisonment of Fraudulent Debtors Act, 1915, to work at some trade or vocation in a gaol or place of detention unless specially exempted by the Court committing him (s. 2). The products of the work of any such prisoner shall be sold or otherwise disposed of, and from the net proceeds of such sale or from the wage earned by him, or from both, shall be deducted the cost of his maintenance and the balance disposed of as the Inspector-General directs toward the maintenance of the wife and family (if any) of such prisoner or of any person dependent upon him, or in or towards satisfaction of any order of maintenance or for confinement expenses under the said Marriage Act or Neglected Children's Act (s. 4).

Places of detention under this Act may be prescribed and are to be deemed gaols within the Gaols Act, and power is given to the Inspector-General to remove any prisoner from any gaol to any such place of detention and *vice versa* (ss. 4 and 5).

Rules and regulations may be made by the Governor in Council prescribing (*inter alia*):

(*a*) The trades, vocations or classes of work at which such prisoners may be employed;

(*b*) The mode of sale and disposal of the products of the work of such prisoners;

(*c*) The disposal of the proceeds of such sale;

(*d*) Scales of wages for the several classes of labour in which such prisoners may be employed and the disposal of such wages (s. 6).

Finally, the Governor in Council is empowered to make regulations as to remission of sentences on such prisoners where special industry and good conduct have been manifested (s. 7).

Hawkers.—The Metropolitan Hawkers Act (No. 2974) amends the law relating to hawkers and pedlars. Till this Act was passed a hawker could only hawk in a particular municipality with the licence obtained from that municipality, and if he crossed the road into another municipality he had to get another licence. By this Act he may, if licensed, hawk fish, flowers, fruit, milk, vegetables, victuals of any description or any agricultural produce over the whole metropolitan area.

All metropolitan hawkers are to be licensed under this Act (s. 4). Application is to be made to the clerk of the Court of Petty Sessions at Melbourne, together with a certificate of good character from at least two known and respectable persons residing in the metropolis, and the justices assembled at a general meeting of the justices in the police district of Melbourne are to consider the application, and may grant the licence (s. 5), which is for twelve months and costs 20*s*. (s. 6).

The licensee is not liable for any market tolls, fees, charges or dues while selling in any street or public place throughout the metropolis, but is subject to any by-law made by the council of any municipality prescribing the limits, whether as to time or place, within which it is permitted to sell (s. 8).

Any member of the police force above the rank of sergeant may apply to a Court of Petty Sessions to revoke any such licence on giving to the licensee at least fourteen days' notice and the grounds thereof, and the Court may on the hearing of such application revoke the licence if satisfied that the licensee has been guilty of any felony or of any breach of any of the provisions of the Act (s. 10).

Any Court of Petty Sessions may issue a duplicate licence for one lost or destroyed (s. 11), and the Governor in Council may make all necessary regulations to carry out the purposes of the Act (s. 12).

Second-hand Dealers.—The Second-hand Dealers Act (No. 2992) compels the registration of second-hand dealers and the keeping by them of a register of the purchases. It has no application to auctioneers or pawnbrokers or licensed collectors of marine stores or ship-owners (s. 3). It applies to those who deal in or carry on the business of dealing in or buying, selling on commission or otherwise, or exchanging any second-hand wares as set out in the first schedule, viz.: Watches, clocks, jewellery, silver-ware, electroplated-ware, cutlery, optical, surgical, medical or scientific instruments, firearms, harness, bridles, saddles, rugs, lamps, tools of trade, bicycles and motor-bicycles and the fittings and accessories thereof, fittings and accessories of motor-cars, wearing apparel, bed-clothing, billiard-balls and the fittings of billiard-tables or billiard-rooms, portmanteaux or other handbags of any description, and manufactured leather goods.

It requires that after the expiration of three months from the commencement of the Act no person shall carry on the business of a second-hand dealer unless he is licensed (s. 4). The Court of Petty Sessions nearest to the place of the business is to be applied to for the licence and the applicant must furnish, eighteen days before the application to the Court, a certificate by five householders, and any member of

the police force above the rank of sergeant may object to such licence (ss. 5 and 6).

The licence is an annual one and authorises the carrying on of the business at the premises named in the licence (s. 7), and any such member of the police force may, on notice to the licensee, apply to the said Court to revoke the licence, which it may do subject to an appeal to the County Court (s. 8).

Provision is made for the transfer of the licence from the premises named to other premises, or from the licensee to any proper person—in each case with the Court's approval (ss. 9 and 10). The licence ceases if the business premises are assigned, except as provided for by the Act (s. 11), and provision is made for carrying on the business in case of the insolvency, death or lunacy of the licensee (s. 12).

A register is kept of the licences granted, and on payment of 1s. fee any person may inspect it and take a copy of it (s. 13), and every dealer, on demand at the premises, shall produce his licence to any member of the police force (s. 14).

A new licence may be issued in lieu of any original lost (s. 15), and the licensee is required to keep his name painted over his premises with the words "licensed second-hand dealer." His hours of business are those required by the Factories and Shops Acts if applicable, otherwise between the hours of 8 a.m. and 6 p.m. (ss. 16 and 17).

An important section is s. 18, requires him to keep a "purchases book" on his premises, and to enter therein, after every purchase or exchange of second-hand wares has been effected or any second-hand wares received into his custody or possession, the particulars of the transaction and have the entry signed as prescribed. The particulars include:

(*a*) A proper and distinctive description of each article purchased or received by him; (*b*) the name and place of abode of the person from whom he purchased or received it; (*c*) the date and hour of the day of each transaction; (*d*) the price paid or agreed to be paid for the articles or the goods exchanged or agreed to be exchanged therefor; or (*e*) any other prescribed matters.

Special provision is made as to goods bought or sold or exchanged in a lot or parcel, and also as to second-hand wares bought at auctions.

The licensee must, during reasonable hours in the day-time, produce this book and any articles then in his possession to any member of the police force requesting it or them, and the articles shall be deemed in the licensee's possession when they are in any house, shop, room, outhouse, yard, garden, premises or place occupied by him, or have been removed with his knowledge or permission to any other place without a *bona fide* sale or exchange of them having been made by him (s. 19).

Penalties are prescribed by s. 20 for making false or incomplete entries in the "purchases book."

The licensee is further required by s. 21 to keep all wares unaltered and unsold for four days, and on notice by the police for a further five days, and he is also forbidden to buy or receive by himself or by any other person on his behalf any second-hand wares from persons under eighteen years of age.

Sale of Goods.—The Goods Act (No. 2983) amends the Goods Act, 1915. It forbids the sale of certain proclaimed goods unless there is applied to them (or, if so prescribed, to any covering label, seal or thing used in connection therewith) in the manner prescribed, a trade

description of such a character as is prescribed indicating the country or place in or at which the said goods or such portions of or constituents thereof as are prescribed were made or produced (s. 3).

It forbids any manufacturer, dealer or trader to alter, whether by addition, effacement or otherwise, any trade description which has been applied under or in compliance with any law of Victoria or of the Commonwealth of Australia to any goods or to any covering label, seal or thing used in connection therewith, and which indicates the country or place in or at which they were made or produced (s. 4).

To commit or aid or abet in the commission of any contraventions of the Act or regulations unless defendant proves he acted without intent to deceive or defraud is made an offence (s. 8).

The Minister may direct the seizure and forfeiture of all goods to which the prescribed trade description is not applied which are offered for sale, and all goods in respect of which or the covering label, seal or thing used in connection therewith any trade description has been altered in contravention of the Act (s. 6). But in certain circumstances the Minister is given a power of remission (*ib.*)

Certain amendments are made in the definition sections of the principal Act to bring it into line, as far as trade descriptions of the country of origin are concerned, with the Commonwealth Commerce Act of 1905 (No. 16 of 1905). A " trade description " is also made to include " a newspaper advertisement relating to goods " which is not in the Commonwealth Commerce Act of 1905. Part V. of the principal Act as to application of false trade description to goods is extended to the application to goods of figures, words, marks, etc., calculated to mislead persons as to the country of origin of the goods (s. 7).

As the Health Department administers the pure food provisions of the Health Act, the administration of this present Act, so far as it applies to articles used for food or drink by man or medicines or medicinal preparations, is assigned to the Minister of Public Health (s. 8).

All necessary regulations are to be made by the Governor in Council (s. 10).

Friendly Societies.—The Friendly Societies Act, 1918 (No. 2946), attempts a settlement of a somewhat prolonged dispute in the State between the British Medical Association and the friendly societies in reference to the desire of the former body to alter the agreement under which doctors had contracted to give medical services to members of friendly societies and their dependents. Conferences between the disputants had been held, but without result, and the doctors tendered their resignations as from January 31, 1918, and notified the societies that they were willing to act under an agreement a copy of which was forwarded. The societies regarded such suggested agreement as burdensome on their members, particularly the requirement of an increased fee to be paid by the societies to the doctors and the intention of the doctors to fix a limit to the income of lodge members entitled to medical attention for themselves and their dependents.

A Board of eleven members is constituted, five as representing friendly societies and branches, and five as representing medical practitioners, and the eleventh as chairman. Any five members may exercise the power of this Board, and the decision of the majority shall prevail (s. 3).

This Board is empowered to (1) hear, inquire into and investigate the disputes and differences leading to the resignation of the medical

officers of certain friendly societies and branches, and all matters affecting the merits of the said disputes and differences or relating thereto or arising therefrom; and (2) inquire into and consider and make such recommendations as it thinks just and reasonable with respect to what should be provided for in agreements between friendly societies or branches, and medical officers thereof, including the terms and conditions of such agreements, the remuneration and payment of medical officers thereunder, and the method of determining such remuneration or payment, with power to make differing recommendations to meet special or local conditions.

It has to report to the Minister and it may frame a model form of agreement. The Minister is empowered to refer to the Board for further consideration any of its recommendations before the Governor in Council approves of them (s. 4).

The approved agreement is to be automatically part of all future contracts between doctors and friendly societies, including medical institutes,unless the parties in their contract exclude such agreement (s. 5).

A vital section is s. 7, empowering the chairman to call a compulsory conference or examination of the disputants at a time and place specified by the chairman and fixing penalties for non-attendance.

The Board is to act according to equity, good conscience and the substantial merits of the case without regard to technicalities or legal form, and is not to be bound by any rules or evidence, nor is any barrister or solicitor allowed to appear before or be heard by the Board (s. 8).

Consequential alterations or variations are authorised to be made in the rules of any society on the certificate of the registrar that it is not contrary to the Friendly Societies Acts or (where the case so requires) on a certificate of the Government Statist that it will not be prejudicial to the financial position of the society or branch (s. 11).

The Act is to continue in operation until the termination of the war and six months thereafter with certain savings, including that of any agreement to which this Act applies, for such agreement as to continue in operation as if this Act had not expired unless and until settled or determined in accordance with the agreement or by the parties thereto (s. 13).

7. WESTERN AUSTRALIA.

[*Contributed by* F. L. Stow, Esq., LL.D.]

For the year 1918 forty measures were passed. These were enacted during the first and second sessions of the tenth Parliament of Western Australia. The Acts passed included Acts for the continuance of expiring laws, Acts of a local or private character and revenue and taxation Acts. Nearly all of these are omitted from the following review.

Admiralty.—No. 2 is a Bill to confer Admiralty Jurisdiction on the Local Court at Broome in cases concerning seamen's and masters' wages. This measure was reserved, and the King's assent has since been proclaimed. The object of the Act is to enable pearl fishers at Broome to recover wages by proceedings *in rem* against pearling luggers without the delay and expense of taking proceedings in the Supreme Court, which is situated in Perth, over 1,000 miles distant.

Elections.—No. 5 is an amendment of the Electoral Act. Its principal effect is to make the offences of voting more than once and wilfully making

false statements in relation to electoral matters punishable summarily instead of being, as heretofore, indictable offences. The Act also renders the making of a false statement punishable even though the statement were made unintentionally.

Intestates' Estates.—No. 9 repeals the provisions relating to the Curator of Intestate Estates contained in the Administration Act, 1903, and substitutes other provisions whereby the powers of the Curator are enlarged. Under the old Act the Curator was, for some reason best known to the framers of the Act, prohibited from distributing an estate unless the amount thereof was very small. He could collect and realise the property and pay the debts, but the task of distribution had to be performed by some next-of-kin or creditor of the deceased or other person who should obtain a grant of administration for the purpose. This is the principal amendment effected by the Act, though there are others tending to enlarge the Curator's powers; but Parliament has not yet seen fit to give him the status of "Public Trustee."

Employment Brokers.—No. 11 amends the Employment Brokers Act, 1909, and enunciates the principle (if principle it can be called) that no payment or remuneration for or in respect of any hiring shall be charged by an employment broker to the servant which is not equally charged to the employer.

Apprenticeship.—No. 12 provides for the suspension of contracts of apprenticeship during such time as the apprentice may be on active service.

Friendly Societies.—In the Friendly Societies Act, 1894, is a provision that moneys received or paid on account of any particular fund or benefit shall be kept separate and distinct. This must now be read subject to the proviso, added by Act No. 13 of 1918, that where the sickness and funeral funds of a friendly society are administered by one central body for the whole society such funds shall, if the Registrar approves, be treated as one fund.

Public Health.—No. 17 amends the Health Act, 1911. The amendments of most importance have to do with those sections relating to venereal diseases, which were inserted by Act No. 55 of 1915. The Act just mentioned introduced a system which had up to that time not been adopted in any country. Shortly, it provides:

(*a*) That any person suffering from venereal disease shall place and keep himself under treatment, and shall, until he has received a certificate of cure, attend a medical practitioner once at least in every four weeks.

(*b*) That if any such person shall change his medical adviser he shall notify his new adviser of the name of his previous adviser, and the new adviser shall send the prescribed notice to the previous adviser.

(*c*) That medical practitioners are to report cases of venereal diseases under treatment by them to the Commissioner of Public Health, but that the name and address of the patient shall be omitted from the report.

(*d*) That if a patient under treatment by a medical practitioner for a venereal disease fails to attend such practitioner for a period of six weeks and the practitioner does not receive a notice from another practitioner that the patient has changed his medical adviser then such first mentioned practitioner shall send to the Commissioner a notice of the facts, stating the name and address of the patient.

The Act then goes on to provide that, whenever the Commissioner

has received a signed statement setting forth the full name and address of the informant, and stating that any person is suffering from venereal disease, and shall consequently believe such person to be so suffering, he may require such person to produce within a certain time a medical certificate that he is free from the disease, and, in default of a satisfactory certificate being produced, the Commissioner may order the compulsory examination, treatment and segregation of the person affected.

It is in this last-mentioned provision that the Act (No. 17) now under review makes an important alteration.

The provision requiring a signed statement was found inconvenient in practice, and the amending Act consequently provides that the Commissioner may act whenever he has reason to believe that any person is suffering from any venereal disease.

This amendment was not passed without some considerable controversy, and its operation was limited to the period ending September 30, 1919. This has since been extended by an Act of 1919 to December 31, 1920.

The amending Act also alters the provisions relating to the frequency with which a patient must attend his adviser, and enacts that he must attend for treatment and advice in the case of syphilis at least once in every two weeks during the primary and secondary stages and thereafter at least once in every four weeks, and in the case of gonorrhœa he must attend at least once every seven days during the continuance of acute symptoms and thereafter at least once every fourteen days, and in the case of soft chancre the attendance must be at least once every seven days.

The period which the practitioner must wait before giving the patient's name and address to the Commissioner is also altered, for the amending Act provides that the practitioner may take action in that way if the patient fails to attend on any day on which he ought to attend and for a period of ten days thereafter, and the practitioner does not before the expiry of that period receive from another practitioner notice that the patient has changed his medical adviser.

A further amendment also directs that any practitioner who has reason to believe that any patient suffering from venereal disease intends, in spite of warning, to contract marriage, shall inform the Commissioner of the fact, and the Commissioner may thereupon inform the other party, or the person whom he believes to be the other party, to the proposed marriage, and also any parent or guardian of such party, of the facts imparted by the practitioner.

A further amendment prohibits the giving of certificates of cure to prostitutes.

There are also a number of amendments made in the Health Act in respect of other matters, but they are in matters of detail, and are not of general interest.

Fire Brigades.—No. 18 makes a few small amendments in the Fire Brigades Act, 1916, the most important of which appears to be the provision that an owner of property who insures such property against fire with an insurance company not carrying on business in the State shall, in respect of the premium, be liable to the contribution towards the expenses of administering the Act which the company would have been liable to make in respect of such premium if it had been carrying on business in the State.

Insurance Companies.—No. 19 compels every insurance company (not being merely a life insurance company) carrying on business in the State to deposit £5,000 with the Colonial Treasurer.

Government Stock.—No. 20 increases the rate of interest which may be payable on Government inscribed stock or debentures to 6½ per centum per annum.

Wheat.—No. 26 extends the operation of the Wheat Marketing Act, 1916, to the wheat harvested during the season 1917–18. It ratifies an agreement made with a company to act as acquiring agent under the Government scheme for marketing the 1917–18 harvest, and also empowers the Minister to enter into gristing, storing and selling agency agreements with millers.

The Act imposes a heavy penalty on anyone who, without the previous written authority of the Minister, grists any wheat for any other person between June 13 and December 31, 1918.

Interpretation of Statutes.—No. 30 is a consolidation and amendment of the various provisions relating to the interpretation of Acts of Parliament. In the main the provisions are modelled on the English statute of 1889; but there are some provisions which, though familiar in the legislation of the Commonwealth and the various States, would be strange in England. An example of these latter is the section whereby the penalty for a breach of any section may be stated thus: "Penalty £50," which, in the words of the Interpretation Act, indicates that "any contravention of the section, whether by act or omission, shall be an offence against the Act punishable on conviction by a penalty not exceeding that so set out."

Prisons.—No. 31 is an Act to amend the Prisons Act, 1903, and is supplemental to the provisions of the Criminal Code Amendment Act (reviewed below) relating to indeterminate sentences.

In the Act now under review provision is made for the establishment and government of reformatory prisons in which persons sentenced by the Supreme Court to indeterminate sentences may be confined and subjected to reformative discipline. Provision is also made for transferring prisoners from ordinary prisons to reformatory prisons. There will be an Indeterminate Sentences Board to advise and assist in the administration of the Act.

Criminal Code.—No. 32 is an Act to amend the Criminal Code.

The principal alterations made are as follow:

1. The punishment for the defilement of or indecently dealing with children or young girls is greatly increased in severity.

2. A system of reformative detention is substituted for the present system of preventive detention.

The new provisions for reformative detention are modelled on those contained in the Victorian Crimes Act, 1915. They provide for detention in reformatory prisons under indeterminate sentences. A sentence of this description is no new thing in Australia, and is known amongst the criminal class as a "Kathleen Mavourneen." The person detained under such a sentence has a chance of freedom, for he may be released on probation, and, if his conduct on probation is satisfactory for two years, then he is discharged altogether.

The new provisions are substantially different from those previously existing, which applied to crimes only, and required, before they could be put into effect, that the prisoner should have been convicted, in some

cases twice, in others three times, previously of crimes of a particular class or kind. The amendments made by the new Act make the law much more elastic, and not only provide for indeterminate sentences being passed on habitual criminals, but also give a general discretion to the judge to pass an indeterminate sentence even on a person who has not been previously convicted, if, having regard to the antecedents, character, age, health or mental condition of the person convicted, he thinks fit so to do.

Marine Inquiries.—No. 33 relates to the marine inquiries under the Navigation Act, 1904. Courts of Marine Inquiry were provided for by Parliament under that Act by virtue of the powers conferred by the Merchant Shipping Act, 1894. The Act under review provides for the holding of preliminary inquiries into shipping casualties. It also provides that no certificate shall be cancelled or suspended by a Court of Marine Inquiry unless the person affected has, before the commencement of the inquiry by the Court, been furnished with a copy of the charges against him.

8. NEW ZEALAND.

[*Contributed by* J. CHRISTIE, ESQ.]

Acts passed—Public and General, 24 ; Local and Personal, 13 ; Private, 2.

During the year 1918 there were two sessions of Parliament. The legislation passed was largely of an emergency nature, having reference principally to the war or to conditions arising out of the war.

Expiring Laws Continuance.—The Expiring Laws Continuance Act (No. 1) extended until August 31, 1919, the duration of certain enactments relating to or arising out of the war. On that date several of the enactments in question were allowed to expire, but the duration of others was further extended until August 31, 1920, by the Statutes Repeal and Expiring Laws Continuance Act, 1919. By the Mortgages Extension Act, 1919, the Act of 1914 and its amendments were repealed, and fresh provision was made for the temporary protection of mortgagors.

Finance.—The Finance Act (No. 2) was passed in April 1918, when Parliament was prorogued to enable representatives of the New Zealand Government to attend the Imperial Conference then to be held in London. The Act contains, in addition to the necessary financial provisions, certain general provisions of an emergency nature. It is divided into four Divisions, or Parts, as follows : Part I. Public Revenues ; Part II. Land-tax and Income-tax, and Amusements-tax ; Part III. War-Purposes Loan ; Part IV. General.

Part I. extended until December 31, 1918, the appropriations made for the preceding financial year. A further extension until December 31, 1919, was made by s. 39 of the Appropriation Act, 1918.

Part II. fixed, pursuant to the Land and Income Tax Act, 1916, and its amendments, the rates of land-tax and income-tax (including a special war-tax) payable for the financial year commencing on April 1, 1918. It also modified the provisions of the Finance Act, 1917, in relation to the imposition of an "amusements-tax" and *inter alia* exempted from liability to such tax the proceeds of all entertainments provided by any "society, institution, or committee not conducted or

established for profit" in cases where the proceeds are "devoted to the proper purposes of such society, institution or committee, or are to be used for partly educational and partly scientific purposes, but for no other purposes."

Part III. authorised the Minister of Finance to borrow the sum of £20,000,000 to be used for the purposes of "war" expenditure. Special provisions relative to earlier "war-purposes loans" (*e.g.* as to war-loan certificates, Post Office war-bonds, compulsory contributions, securities available for payment of death duties) were made applicable without important alteration. (*Review of Legislation*, 1917, pp. 90 and 91). Authority to borrow a further sum of £10,000,000 was conferred by Part IV. of the Finance Act, No. 2.

Part IV. contains certain provisions the presence of which in a Finance Act cannot be justified. Their inclusion was due to the necessity of expediting the legislation to enable the prorogation of Parliament at the earliest moment. The following are the most important of the provisions contained in this Part:

(1) S. 19 further extended the duration of the then existing Parliament until December 19, 1919, thus making the total life of that Parliament a period of five years (in lieu of three years, the period for which members were elected). (*Review of Legislation*, 1916, p. 158.)

(2) S. 20 protects local authorities in respect of loans falling due during the war or within twelve months thereafter, and extends all debentures and other securities issued in respect of such loans accordingly.

(3) S. 22 imposes restrictions on the importation of immature spirits. No spirits (other than spirits intended for industrial or scientific purposes) are to be delivered from the control of the Customs unless and until matured by storage in wood for at least three years.

(4) S. 23 (which has since been repealed) made provision for dispensing in certain cases with the registration of mortgages given by companies. Such dispensation was effected by notice to the mortgagee under the hand of the Minister of Finance, and was given on the ground that "owing to war conditions, registration of such mortgage would be unfair or unreasonable in the circumstances."

(5) S. 24 (which has been repealed by the Mortgages Extension Act, 1919) was an amendment of the Mortgages Extension Act, 1914. By an amending Act (1914, No. 17) mortgagors were empowered to contract themselves out of the protection afforded by the principal Act (see *Review of Legislation*, 1914, p. 122). S. 24 of the Act now under consideration limited the amendment of 1914 to "trade mortgages" as therein defined. The amendment was retrospective in its operation and rendered inoperative contracts entered into pursuant to the statutory authority of the amending Act of 1914.

(6) S. 25 is an amendment of the War Regulations Act, 1914, and enables the Governor-General in Council to make war regulations for "procuring, exacting, enforcing, controlling, and regulating national service." The term "national service" does not include military service, but includes all other service deemed essential to the public welfare, including not only personal service but the use of premises, machinery and plant.

Military Decorations.—The Military Decorations and Distinctive Badges Act (1918, 3), is designed, *inter alia*, to prevent the improper

disposal of military decorations. The term "military decorations" is defined as "the insignia of any order granted by His Majesty, and any medal, clasp, good-conduct badge or decoration issued or purporting or reputed to be issued by a competent military or naval authority whether in New Zealand or elsewhere within His Majesty's Dominions." It is declared to be an offence for any person, save in pursuance of the written permission of the Minister of Defence or by way of testamentary disposition, "to sell, exchange, pawn, pledge, give away, or otherwise alienate or dispose of any military decoration, or to purchase or accept by way of exchange, pawn pledge or other alienation or disposition, any military decoration."

The Act also makes provision for the recognition and protection of the badges, uniforms and other distinctive property of the Returned Soldiers' Association, the Boy Scouts' Association and other similar organisations.

Finance (No. 2).—The Finance Act (No. 2, No. 4) is a miscellany of financial and general provisions. It is divided into the following Parts: Part I. Public Revenues Amendment; Part II. Stamp Duties Amendment; Part III. Land and Income tax; Part IV. War Purposes Loan; Part V. Loans for Public Works and other Purposes; Part VI. Miscellaneous.

Part I. repeals and re-enacts with substantial enlargement the law relating to the War Expenses Account and the War Loans Sinking Fund (see *Review of Legislation*, 1914, p. 123, and 1915, p. 94).

Part II. is an amendment of the law relating to Stamp Duties, principally by way of extension or modification of existing provisions. A new provision of some importance is contained in s. 13, which empowers the Commissioner or any Deputy Commissioner of Stamp Duties, if he has reason to believe that an instrument chargeable with stamp duty has been executed, but has not been presented for stamping, to call for the production of the instrument. Failure to comply with the requisition is punishable by a fine of £50.

Part III. grants a concession to life-insurance companies in respect of the special war-tax imposed by the Finance Act (1918, No. 2).

Part IV. (War Purposes Loan).—This Part contains an authority to the Minister of Finance to raise a further sum of £10,000,000 as a war-purposes loan. The incidental provisions (including provision for compulsory subscriptions) are similar to the provisions passed with respect to the loan of £20,000,000 authorised by Part III. of the first Finance Act of the Session (1918, No. 2).

Part V. confers authority on the Minister of Finance to borrow moneys for public works and other local purposes, including, *inter alia*, the erection of buildings for purposes of education, the construction of hydro-electric works, afforestation, the settlement of discharged soldiers and the erection of cool-storage for produce.

Part VI. (Miscellaneous):

(1) S. 34 contains statutory authority for the issue of bank-notes of a denomination of five shillings.

(2) S. 36 provides for the establishment of a Reserve Fund Account, not exceeding £350,000, in connection with the Post Office Savings Bank.

(3) S. 37 declares certain days therein enumerated to be deemed for all purposes to have been bank holidays. The days in question were days during which the banks were closed, firstly in celebration of the

signing of the Armistice, and secondly because of the epidemic of influenza which was prevalent in New Zealand in November 1918.

Electric Power.—The purpose of the Electric Power Boards Act is to make provision for the construction and purchase of works for the generation, transmission and supply of electric power by Electric Power Boards. The Act provides for the constitution by the Governor-General, on petition, of electric power districts with elective Boards. Subject to the approval of the Governor-General in Council, an electric-power Board may, within its district, construct electric works and supply electric energy, and do all other matters incidental thereto. Power is reserved for the acquisition by the Crown of any electric-power works on payment of compensation as determined by arbitration.

The Act is largely an adaptation of the Local Railways Act, 1914 (see *Review of Legislation*, 1914, p. 125).

Aviation.—The Aviation Act (No. 6) is designed to enable the Government, by means of Orders in Council, to control the practice of aviation in New Zealand. It provides for the issue of regulations, relating, *inter alia*, to the following matters: (1) the issue of licences for flying-schools; (2) prescribing courses of instruction in aviation, and the issue of flying-certificates and licences; (3) the recognition in New Zealand of flying-certificates issued elsewhere; (4) the registration of aircraft; (5) the carriage in aircraft of passengers and goods; and (6) penalties for offences.

Post Office.—The Post and Telegraph Department Act (No. 7) removes the Post and Telegraph Department from the control of the Public Service Commissioners appointed under the Public Service Act, 1912 (see *Journ. Comp. Leg.* vol. xiv., p. 162), and makes other provision with respect to that Department. Provision is made for the appointment of a Promotion Board (representative of the Department), whose function is to make representations for the appointment and promotion of officers of the Department. The recommendations of the Promotion Board are given effect to by the Public Service Commissioner. Appeals lie to a Post and Telegraph Appeal Board, of which two members are appointed by the Governor-General, and two are elected by the officers of the Department. Extensive rights of appeal (which have been extended by the Amendment Act of 1919) are conferred on officers of the Department with respect to official determinations affecting their status and remuneration. The Governor-General is empowered to make regulations for the classification, remuneration, duties and discipline of officers.

Reformatories.—The Reformatory Institutions Act (No. 8), provides for the establishment by the State of institutions intended for the care and treatment of drunkards and for the detention of women and girls requiring reformative treatment. The provisions of the Reformatory Institutions Act, 1909 (relative to institutions controlled by private philanthropic bodies), are made applicable to the state institutions proposed to be established.

Expeditionary Forces.—The main provisions of the Expeditionary Forces Amendment Act (1918, No. 9), (which is an amendment of the Expeditionary Forces Act, 1915), are the following:

(1) The period of enlistment of members of the New Zealand Expeditionary Force is extended by six months (*i.e.* from six to twelve months after the termination of the war). The object of the extension is to allow sufficient time for demobilisation.

(2) Provision is made for the establishment of military hospitals; persons undergoing treatment in a military hospital are for the time being under the military command of the Superintendent, notwithstanding that they may have been discharged from the Expeditionary Force. This provision has been found necessary in the interests of discharged soldiers undergoing courses of curative treatment at military hospitals.

(3) By s. 6 the Governor-General is empowered to abolish the Expeditionary Force Reserve constituted by the Military Service Act, 1916. A Proclamation abolishing the Reserve pursuant to this section was duly issued on August 13, 1919.

(4) Provision is made for the payment of a bonus or gratuity to members of the Expeditionary Force (or to the relatives of deceased members) in respect of their service abroad.

(5) Ss. 8 to 15 relate to "military defaulters." The Minister of Defence is required to compile and publish in the *Gazette* a "Military Defaulters List," containing the names of men who have unlawfully evaded military service (not including, however, men who refused to perform military service because of *bona fide* religious objections). Military defaulters who may be out of New Zealand on the passing of the Act are prohibited from returning within ten years, and any person so returning is liable for so doing (and without affecting his liability in respect of any other offence) to be imprisoned for twelve months and then to be deported.

Moreover, all military defaulters are "deprived of civil rights" for ten years, and are incapable accordingly—

(*a*) Of holding office in the service of the Crown or any local or public authority; (*b*) Of holding office as a member of either House of Parliament, or of any local or public authority; or (*c*) Of being enrolled as an elector for any election of a member of Parliament or of any local or public authority.

War Legislation and Statute Law.—The War Legislation and Statute Law Amendment Act (No. 10) is another miscellany of legislation. It is in two Parts, viz.: Part I. War Legislation; Part II. Statute Law Amendment.

Ss. 2 to 12 relate to the acquisition of land by persons of enemy origin (not being alien enemies) and are supplementary to the provisions of Part I. of the War Legislation Act, 1917 (see *Review of Legislation*, 1917, p. 97). The expression "person of enemy origin" is defined as "a person who (being a subject of His Majesty or of a friendly State, whether by birth or otherwise) has at any time been a subject of an enemy State," and includes the wife of any such person. Persons of enemy origin are prohibited from acquiring land in New Zealand save pursuant to a licence issued by the Governor-General in Council. Land acquired in contravention of the Act may be declared forfeited to His Majesty; land acquired by persons of enemy origin since the commencement of the war, but not in contravention of the Act, may be resumed by the Crown for public purposes on payment of compensation assessed by arbitration. On the termination of the war all persons who, during the war, were "alien enemies," and as such within the legislation of 1917, automatically come within the provisions of the Act as if they were persons of enemy origin, as therein defined.

Housing Problem, and the Restriction of Increase of Rents.—S. 13 is in amendment of Part I. of the War Legislation Amendment Act, 1916

(see *Review of Legislation*, 1916, p. 155), relating to restrictions on the increase of rents. It makes special provision for the protection of tenants, being soldiers or discharged soldiers, or their wives, widows, or other dependents. Other classes of tenants are protected by s. 56 of the Housing Act, 1919, which confers on the Court a discretionary authority to decline to make an order for possession of a dwelling-house in any case where ejectment would be a cause of undue hardship to the tenant. This somewhat extreme legislation is accounted for by the absence of sufficient housing accommodation in all the larger centres of population.

Regulation of Trade and Commerce.—Ss. 14 to 22 are in amendment or extension of the Regulation of Trade and Commerce Act, 1914. They make provision, *inter alia*, for the following matters:

(1) The securing of supplies of goods and merchandise produced in New Zealand and required for the purposes of the Imperial Government.

(2) The adjustment by the Arbitration Court (having regard to the increased cost of living) of the rates of remuneration fixed by awards and agreements in force under the Industrial Conciliation and Arbitration Act.

(3) The hoarding of goods, and the charging of excessive prices. This matter has since been more comprehensively dealt with by Parliament in the Board of Trade Act, 1919.

Soldiers' Wills.—S. 23 relates to the proper construction of s. 11 of the Wills Act (Imperial), with respect to the wills of infant soldiers. It declares that the said section "authorises and always has authorised any soldier being in actual military service, or any mariner or seaman being at sea, to dispose of his personal estate as he might have done before the passing of that Act, though under the age of twenty-one years" (cf. 7 & 8 Geo. V. c. 58, s. 1).

Date of Termination of War.—S. 24 is declaratory of the proper construction to be placed on statutory references to "the war," or "the duration of the war," or "the termination of the war" or equivalent expressions. References to "the war" are declared to be references to the war with Germany; for purposes of construction the date of the termination of the war is a date to be fixed by the Governor-General by proclamation. All Courts are directed to take judicial cognisance of the issue of such Proclamation.

Protection of Soldiers.—S. 25 empowers the Attorney-General and the Minister of Justice, acting jointly, to cancel any warrant issued for the arrest of a person charged with an offence in cases where the person charged has, since the issue of the warrant, served with His Majesty's Forces beyond the seas.

S. 26 enables the Governor-General to make regulations for the protection of soldiers or discharged soldiers against the execution of civil judgments, or process, proceedings in bankruptcy, forfeitures, the exercise of rights of distress or re-entry, the exercise of rights of sale or entry into possession, or the enforcement in any other manner of the civil obligations or liabilities of soldiers or discharged soldiers.

Unauthorised Consular Agents.—By s. 28 it is declared unlawful for any person to act as or profess to be a diplomatic, consular, commercial, or other representative, agent or officer of a foreign State or political community, without having the exequatur or other authority of the Crown.

State Forests.—By s. 34 the Governor-General is empowered to set apart land as " provisional State Forests." Such provisional reservation may be at any time in like manner revoked if the land is required for purposes of closer settlement. Authority is also given to the Governor-General in Council to regulate and restrict the export of New Zealand timber and the cutting of standing timber either on public or on private lands.

Education.—(1) S. 35 permits the Senate of the New Zealand University to make arrangements for holding special examinations or for granting degrees without examination, in the interests of students whose studies were interrupted by the epidemic of influenza prevalent in New Zealand in November 1918.

(2) S. 36 provides for the appointment of " organising teachers," with such powers and duties as may be afterwards prescribed, for the purpose of supervising and co-ordinating the work of teachers in isolated schools.

Apprentices.—S. 40 repeals earlier legislation passed in 1916 (see *Review of Legislation*, 1916, p. 157) with respect to apprentices whose apprenticeship has been interrupted by military service. The original legislation provided for the reinstatement of the contract of apprenticeship, by agreement with the master ; the new provisions confer on the apprentice the right to demand that the contract be revived, either wholly or in part. The substituted provision is unsatisfactory both in form and substance.

Intoxicating Liquor.—The Licensing Amendment Act (No. 11) is divided into three parts as follows : Part I. Special Licensing Poll ; Part II. Result if National Continuance is carried at the Special Licensing Poll ; Part III. Result if the determination at the next General Licensing Poll is in favour of National Continuance.

Part I. provided for the taking of a special licensing poll on the proposal of national prohibition with compensation. The poll was taken on April 10, 1919, when the proposal of National Continuance was carried, the voting being as follows :

For National Continuance	264,189 votes
For National Prohibition with Compensation	253,827 votes.

By Part II. provision was made for the submission to the electors of three proposals at the then next general licensing poll, namely (1) a proposal of National Continuance ; (2) a proposal of National Prohibition without Compensation ; and (3) a proposal of State Purchase and Control.

To carry the proposal either of National Prohibition without Compensation or of State Purchase and Control a bare majority of all the votes recorded was required. The general licensing poll was taken on December 17, 1919, when the result was again in favour of National Continuance.

By Part III. it is provided that, in the event of national continuance being carried both at the special licensing poll and at the next ordinary licensing poll, then at any licensing poll thereafter the only proposals to be submitted are :

(1) A posposal of National Continuance ; and

(2) A proposal of National Prohibition without Compensation.

At any such poll the result is to be determined by a majority of the valid votes recorded.

Land Laws.—The Land Laws Amendment Act (No. 21) remedies a defect of the law disclosed by a judgment of the Privy Council (*Marsh* v. *St. Leger* [1918] A. C. 861) with respect to the renewal of leases of small grazing-runs. It also extends the provisions of s. 28 of the Land Laws Amendment Act, 1912 (relative to the subdivision for the purposes of closer settlement of small grazing-runs under the Land Act, 1908) to such leases granted under the corresponding provisions of former Land Acts.

S. 8 relates to the assessment of compensation in respect of lands acquired by the Crown from owners who had acquired the same by way of aggregation. The section has since been repealed by s. 20 of the Land Laws Amendment Act, 1919, and more stringent provision has been made by that section against the aggregation of holdings contrary to the public interest.

Spirits for Industrial Purposes.—The Distillation Amendment Act (No. 12) enables the Governor-General to make regulations with respect to the distillation or manufacture of spirits for industrial or scientific purposes, and excludes, with respect to such spirits, the obsolete provisions of the Distillation Act, 1908 (which is a re-enactment of legislation passed in 1868).

Repatriation of Soldiers.—The object of the Repatriation Act (No. 14) is to make the necessary administrative provision for the repatriation of soldiers after their return to New Zealand from service beyond the seas. A special Department of State, known as the Repatriation Department, is established to be administered by a specially appointed Board consisting of members of the Executive Council. The work of the Department is carried on, so far as practicable, through the agency of local Boards and Committees established by the Repatriation Board. The Repatriation Board is charged with the duty of " making all such provisions as it deems necessary for the restoration of discharged soldiers to civil life, and for the establishment of discharged soldiers or soldiers' widows in civil employment or occupation," and in particular is directed to establish and carry on schemes or institutions for the educational, industrial and vocational training of discharged soldiers, and for the care and maintenance of discharged soldiers who by reason of wounds or disease incurred in military service are wholly or partially disabled. To ensure the effective carrying out of the scheme, the Board is empowered to grant financial assistance by way of loan for the purpose of enabling soldiers or soldiers' widows to establish themselves in civil employment or occupation.

Legislative Council.—The Legislative Council Amendment Act, 1918, further postpones the commencement of the Legislative Council Act, 1914, providing for an elective in lieu of an appointed Upper House (see *Review of Legislation*, 1914, p. 135, and 1916, p. 158). The Act of 1918 provides for the commencement of the Act of 1914 being fixed by Proclamation. On December 23, 1919, a Proclamation was duly issued, fixing January 31, 1921, as the date of commencement. The first election of Legislative Councillors will accordingly be held simultaneously with the first general election of members of the House of Representatives to be held after that date (probably towards the end of the year 1922).

River Protection.—Acts Nos. 16 and 17 make special provision with respect to protective works in connection with certain specified rivers. The Acts in question empower the Minister of Public Works to construct

protective works pursuant to an approved scheme, the cost of the works in each case being defrayed by the local River Board concerned. So soon as a scheme has been completed by the Minister, the works may be transferred by him to the River Board having jurisdiction in the district, but, pending such transfer, the powers of the Board are suspended in so far as they conflict with the powers of the Minister.

Meat Trust.—The Slaughtering and Inspection Amendment Act, 1918, absolutely prohibits the export of meat from New Zealand save pursuant to a licence issued in that behalf by the Minister of Agriculture. Absolute discretion is conferred on the Minister to grant or refuse an application for a licence, as he thinks fit. Heavy penalties by way of fine are prescribed for offences against the Act, and in addition all meat shipped or attempted to be shipped in contravention of the Act is forfeitable to His Majesty. Licences are issued for a period of one year only, but may be renewed ; any licence may be revoked by the Minister if, in his opinion, the licensee is carrying on business in a manner contrary to the public interest.

War Funds.—The War Funds Amendment Act (1918, No. 19) amends the War Funds Act, 1915 (see *Review of Legislation*, 1915, p. 106). It empowers the Supreme Court to establish schemes for the administration of war funds in cases where, on the information of the Attorney-General, it appears to the Court that a fund is being improperly administered. In establishing a scheme with respect to any fund the Court may define and declare the purposes and trusts of the fund, and may alter such purposes and trusts or any part thereof, and substitute other purposes and trusts of a charitable and public nature. The law as to charitable funds and trusts is applied to all funds in respect of which a scheme under the Act is established. Further protection against dishonest trustees is provided by s. 11, which empowers the Minister in charge to require (subject to appeal to a stipendiary magistrate) the transfer to the National War Funds Council of any Fund that, in his opinion, is being improperly or incompetently administered, or has been unlawfully established or augmented. The Minister may also at any time cause an investigation to be made by a competent person of the administration and accounts of any war fund.

Rabbits.—The Rabbit Nuisance Amendment Act, 1918, imposes on the owners and occupiers of land an obligation to keep that land free from rabbits, *to the satisfaction of the Inspector*. Failure so to do is punishable by a fine not exceeding £100.

Public Health.—The Public Health Amendment Act (No. 22) is an ill-considered measure which was prepared and passed at a time when an epidemic of influenza was prevalent.

Many of its provisions are quite unworkable. It establishes a Board of Public Health, with consultative and advisory but no administrative functions. It is expressed to be the duty of the Board to report to the Minister of Public Health :

" (*a*) Upon methods or developments in national health which, in the opinion of the Board, it is desirable to introduce into New Zealand ;

" (*b*) Upon any matters concerning the medical services, on instruction in health matters, suggested amendments in the law, the relation of the Public Health Department to local government authorities, the training of medical practitioners, dentists, nurses and masseurs ; and

" (*c*) Upon any other matters in connection with Public Health referred to it by the Minister."

The Minister of Public Health is empowered to appoint District Advisory Committees whose duty it is to report to him upon matters affecting the public health in their respective districts. Other provisions relate to the demolition of insanitary buildings; the establishment and maintenance of lodging-houses by local authorities; the appointment and duties of Inspectors of Buildings; the prevention of overcrowding; the appointment of "Sanitation Committees" with powers of entry, inspection etc.; the provision of medical services; the appointment of lecturers and instructors, and the establishment of training classes, gymnasia, etc.

9. FIJI.

[*Contributed by* His Honour A. K. Young, K.C.]

There were twenty-three Ordinances passed by the Legislative Council of the Colony of Fiji during the year 1918, of which the following are the principal.

Water Supply.—Ordinance No. 2 provides for the supply of water free of cost to His Majesty's ships of war and ships of war belonging to any of His Majesty's Allies in the Great War.

Margarine.—Ordinance No. 3 regulates the importation and sale of margarine. This Ordinance follows the provisions usually found in such a measure.

Marriage.—Ordinance No. 5 consolidates and amends the marriage law of the Colony. Under its provisions the views of all creeds and denominations have been met. The Ordinance is divided into five parts.

In Part I. the law relating generally to marriage is enacted, providing, *inter alia* (1) for the registration of ministers of religion as marriage officers; (2) for the giving of notice of marriage; (3) for marriages by special licence; (4) for the giving of consent in the case of the marriage of minors.

In Part II. the marriages between Quakers or Jews are dealt with.

In Part III. an additional form of marriage is provided in cases where the parties to the marriage are Fijians. Native stipendiary magistrates under its provisions are to be appointed for the purpose.

In Part IV. the marriage of Indians by their own priests is provided for.

In Part V., *inter alia*, marriage with deceased wife's sister or deceased husband's brother is recognised, and also marriage between man and niece, or woman and nephew, when authorised for grave cause. Marriage with the brother of a deceased husband has been legalised generally, since amongst Fijians it has always been recognised, and by now extending legal recognition in the case of such marriages to all parties the law is brought into uniformity with that of the Dominion of New Zealand. Marriage between man and niece or woman and nephew in certain cases has been inserted to meet to some extent the custom found in Southern India of a man marrying his sister's daughter. The provision is based on the law regulating the practice in the Colony of Mauritius. Marriage *in articulo mortis* is also provided for. Marriages according to Indian

custom outside the provisions of Part IV., although not made legal marriages, are not penalised.

Registration of Schools and Teachers.—Ordinance No. 6 provides for the registration of schools and teachers. The object of this measure is to ensure as far as possible that the accommodation provided is suitable for the purposes of a school, and that the teachers are competent and fit and proper persons to undertake the care and custody of children.

Petroleum.—Ordinance No. 8 regulates the storage and carriage by sea within the Colony of petroleum. Provision is made for the licensing of private magazines and for their construction and the materials to be used.

Promissory Notes.—Ordinance No. 10 deals with the stamping of promissory notes, and requires such notes to be made, under pain of penalty, on stamped paper. In cases of notes for over fifty pounds the duty payable on the amount exceeding fifty pounds may be denoted by adhesive stamps. In the case of a person being unable to sign his name in letters of the English language, the thumb-mark of the maker is required.

Wheel-tax.—Ordinance No. 12 provides for a wheel-tax.

Suva Sewerage.—Ordinance No. 16 provides a simple means of making money expended in connection with the Suva Sewerage System a mortgage upon the premises in respect of which the work has been done.

Corporal Punishment.—Ordinance No. 18 consolidates the law relating to corporal punishment with the view of rendering the same uniform and less obscure.

Statute of Frauds, etc.—Ordinance No. 20 reproduces the various sections of Imperial Acts relating to indemnity and guarantee usually associated with Mercantile Law.

War Pensions.—Ordinance No. 21 provides a liberal scale of War Pensions applicable to the case of those who at the commencement of the war were *bona fide* resident in Fiji and whose death or incapacity has resulted from their employment in connection with warlike operations. An Act of the Commonwealth of Australia served as the model, but the still more liberal scale of pensions to be found in New Zealand legislation of a similar character has been adopted.

10. WESTERN PACIFIC.

[*Contributed by* His Honour A. K. Young, K.C.]

GILBERT AND ELLICE ISLANDS COLONY.

During the year 1918 there were eight Ordinances passed, of which the following were the principal.

Native Medical Practitioners.—No. 1 permits of certificates to practise being issued to natives who have been medical students at the Central Hospital for not less than three years, and who pass the prescribed examination in medicine and surgery. Native practitioners are not entitled to claim any remuneration for their services.

Copyright.—No. 4 gives power to the Resident Commissioner for the purposes of the application of s. 14 of the Copyright Act (Imperial) 1911.

Fanning Island Defence Force.—No. 5 makes provision for the constitution of a Defence Force in Fanning Island. The provisions of the Ordinance follow those of the Fiji Defence Force Ordinance, 1914.

BRITISH SOLOMON ISLANDS PROTECTORATE.

During the year 1918 ten laws, styled King's Regulations, were passed, of which the following are the principal.

Fishing.—No. 1 prohibits the use of explosives for fishing.

Land.—No. 4 regulates the acquisition by the Crown of land for public purposes.

Registration.—No. 6 provides for the registration of instruments affecting land, for their priority on registration, and for the proof required for such registration. Grants by natives to non-natives and grants by the Crown are void unless registered within three months from date. Other instruments affecting land are void until registration—judgments affecting land are void unless a memorial thereof is registered in the prescribed form. The usual provisions making copies or extracts from the Registers evidence in civil actions are contained in the Regulation.

Public Health.—No. 8 gives power to the High Commissioner to make rules for the purpose of protecting the Public Health. A series of rules is contained in the Schedule to the Regulation which remain in force until varied, or rescinded under the above-mentioned power.

IV. SOUTH AFRICA.

1. UNION OF SOUTH AFRICA.

[*Contributed by* E. L. MATTHEWS, Esq., K.C., C.M.G.]

Acts passed—31.

The session of the Union Parliament in 1918 was of shorter duration than those of the two immediately preceding years. It commenced on January 17 and lasted without intermission until May 8. Some useful and important measures were passed. The work of consolidating the administrative laws of the late Colonies was continued, with the result that the laws regulating the conduct of parliamentary and provincial council elections were unified, including those relating to the preparation and revision of voters' rolls; also the laws relating to the registration of land and immovable property and of rights incidental thereto. The lengthy consolidating legislation of 1917 relating to the administration of justice was completed by the passing of a short Act relating to the jurisdiction of Courts of special justices of the peace. A commencement was made in industrial legislation by the passage of a Factories Act and an Act regulating wages of women and young persons in certain occupations and the employment of apprentices.

Some measures arising out of war conditions were placed on the statute-book; there were the usual financial Acts; while the miscellaneous statutes included some far-reaching amendments to the Transvaal

Mineral laws. In addition there were two measures of constitutional interest.

Elections.—With certain exceptions to which reference will presently be made, the pre-Union laws relating to the qualifications and disqualifications for the enrolment of persons to exercise the parliamentary franchise are left untouched by the Electoral Act (No. 12).

S. 35 of the Union Constitution (the South Africa Act, 1909, 9 Edw. VII. ch. 9) provides that the Union Parliament may by law prescribe the qualifications which are necessary to entitle persons to vote at the parliamentary elections; the succeeding section provides that, subject to s. 35, the qualifications for parliamentary voters in the four Colonies, as such qualifications exist at the establishment of Union, shall be the qualifications in the corresponding Provinces, and the section following that keeps alive the provisions of the pre-Union Colonial laws in force at the date of Union relating to the registration of voters, oaths and declarations of voters, returning officers, powers and duties of officers, proceedings in connection with the conduct of elections, election expenses, corrupt and illegal practices, election petitions, vacation of seats and filling of casual vacancies. A further section applies these last provisions to provincial council elections. The effect of all these provisions of the Constitution was that, for eight years succeeding the date of Union, two parliamentary general elections, with numerous by-elections, and three general elections of the four Provincial Councils, have been conducted in accordance with pre-Union laws. Consolidation and unification have been twice attempted since the date of Union, but pressure of other work has prevented the Bill finding a place on the statute-book till 1918.

It will be seen, from what has been said, that the vexed question of qualifications and disqualifications is outside the scope of this review, for the new Act does not deal with it. The reasons for that may be here shortly hinted at. In Cape Colony race or colour has never been a bar to enrolment as a voter; in Natal there was originally no colour bar, but subsequently a native was expressly disqualified from being enrolled as an elector unless he obtained a certificate from the Governor that he had been resident for twelve years, and had been exempted from the operation of native law for seven years. Later still it was enacted that no person belonging to a class which is placed by special legislation under the jurisdiction of special courts, or is subject to special laws and tribunals, might be enrolled unless he was in possession of a letter of exemption granted by the Governor. Such a letter of exemption could only be granted if the applicant personally wrote his application in English or Dutch. By still later legislation, persons who are not of European origin may not be enrolled if they are descendants of natives of countries which have hitherto not possessed elective representative intitutions, unless such persons obtain exemption orders from the Governor. The last provision effectually excluded from the franchise both imported and colonial-born Indians.

As very few letters of exemption have been granted in Natal either to South African natives or to Indians, there are very few on the parliamentary register. In the Transvaal and the Orange Free State, when responsible government was granted in 1906 and 1907, the franchise was given to white persons only. S. 35 of the South Africa Act specially entrenched the position of the native or coloured voter or prospective

voter by requiring that no electoral law passed by the Union Parliament should disqualify, on the ground of race or colour only, any person in the Cape Province who under the pre-Union law is *or may* become entitled to enrolment, unless such law is at the third reading passed by not less than two-thirds of both Houses of Parliament sitting together. A unification of franchise was therefore, when regard is had to the existing facts and sentiments, not a question of practical politics at the present time. So far, therefore, as the new Act deals with the registration of parliamentary and provincial council voters, it confines itself, with certain other exceptions to which reference will be made, to machinery for the enrolment of those who in their own provinces possess the requisite qualifications under pre-Union laws and are subject to no disqualifications. This machinery is provided in Chapter I. There is to be a biennial registration of voters, together with a supplementary registration half-yearly in the year in which the biennial registration does not take place. The chapter also makes provision for the revision of the voters' lists prepared at each such registration. The new voters' lists, when revised after a biennial registration, come into operation on August 1 in the year of registration, while the revised supplementary lists come into operation six weeks after the termination of the half-year. The chapter also provides for purging the several voters' lists of the names of persons which by accident have been inserted in more than one list; and further provides for an adjustment of voters' lists to correspond with any statutory redelimitation of constituency boundaries. Under the South Africa Act such a redelimitation only takes effect at a general election. In connection with registration it may be mentioned that hitherto registration has been biennial in three of the Provinces, while in Natal it has been annual. To that extent therefore the new Act is an amending one; it is also an amending one in another respect, inasmuch as the pre-Union laws in no province provided for supplementary registration.

It will be convenient here, before reviewing the other chapters of the Act, to indicate certain provisions which have altered qualifications for the franchise. In the first place, the principle of "one man one vote" existed before Union in every province except Natal. In Natal, however, where there was a property qualification as well as an occupation and a wages qualification, it was possible to be registered in every constituency in which one owned immovable property of a certain value. The new Act abolishes the plural vote in Natal and therefore to some extent may be said to have altered qualifications; it has, of course, produced uniformity in this respect. But there are other provisions of the new Act which have certainly varied qualifications and disqualifications for the franchise. For example, there has been added what is at first sight a new qualification based upon active military or naval service in time of war. As a novelty, however, it is more apparent than real, inasmuch as the object of the provision was to prevent the disfranchisement of a person domiciled in the Union who, if he had not volunteered for active service outside the Union, would have obtained or retained the franchise on an occupation or a residence or a salary or wages qualification. Such a person will, by satisfying certain requirements on his discharge from active service, be entitled, if not disqualified on other grounds, to have the period spent by him on active service substituted or the ordinary qualification; and the substituted qualification will

endure only till the next registration of voters which takes place after his discharge.

Another variation as regards voters' qualifications is one whereby aggregate periods of residence in two or more provinces will be counted as equivalent to the statutory period of residence in the province where the claimant desires to obtain the franchise. In effect civil servants, employees of large businesses, and others who in the course of their duties have to change their residences from time to time, will not lose their votes. Akin to this is a provision whereby an enrolled voter may obtain the transfer of his name from a voters' roll in a constituency in which he has ceased to reside to that of a constituency in which he has taken up or is about to take up a new residence and to count for this purpose the two periods of residence as one, for the residential qualifications of his new constituency. This in effect provides a form of continuous registration of voters. Another provision provides for the removal of a disqualification. The Constitution, *i.e.* the Act of Union, provided that no member of His Majesty's regular forces on full pay shall be registered as a voter. This prohibition was also to be found in one form or another in the pre-Union franchise laws. When these provisions were inserted there was clearly in contemplation only the Imperial garrison quartered in different places in South Africa ; the inclusion of members of the garrison in voters' lists at those places would obviously have been inequitable, as they were merely temporary residents and their numbers in most towns would have swamped the resident voters. But when permanent inhabitants of the Union were enrolled in tens of thousands in the various oversea contingents sent to Europe and East Africa, and others in large numbers went independently to England to join the new armies and so became members of His Majesty's forces on full pay, the bar to the franchise was clearly inappropriate and inequitable. Accordingly nothing in the previous existing legislation is to disfranchise those men during the war and six months after its termination merely on the ground that they are members of His Majesty's regular forces on full pay. Such are the provisions of the new Act as to registration of voters and qualifications and disqualifications for registration.

Chapter II. provides for the conduct of elections. In respect of this matter little amendment has been made in the pre-Union laws, which bore great similarity to each other and to those which are to be found in most British dominions. The provisions which specially relate to the conduct of polling have been taken almost verbatim from the English Ballot Act 1872, and the regulations made under it. As regards nominations of candidates, the new Act follows the Transvaal and Free State law in requiring merely a proposer and seconder. The Cape and Natal laws required written requisitions of twenty or more voters instead of nominations. The nomination takes place at a public court of nomination. As under the previous law, the State bears the whole cost of the polling arrangements subject to a provision for a deposit or security by each candidate, which will be forfeited by any candidate who polls less than one-fifth of the number of votes received by the successful candidate. The polling hours are 8 a.m. to 8 p.m.; this follows the Transvaal and Free State provision in preference to the earlier closing hours of the other provinces. As under the previous laws, the polling at all general elections takes place on one day.

Chapter III. as to electoral expenditure also follows very closely the

previous laws. The same remark applies to Chapter IV. relating to corrupt and illegal practices, and Chapter V. relating to election petitions. The previous law as to election expenditure and corrupt and illegal practices was based on English legislation—notably on the English Corrupt and Illegal Practices Act, 1883 (Sir Henry James's Act), and subsequent amendments thereof. As regards election petitions, they must be heard by at least three judges of the provincial divisions of the Supreme Court, and an appeal lies to the Appellate Division with the leave of that Division.

Among the miscellaneous provisions in Chapter VI. is one under which, for the period of the war and six months thereafter, voters who are on active service may vote by proxy. The details of the manner of appointing proxies and the number of voters whom one proxy may represent and the qualifications and duties of these proxies are set out in a schedule and are very similar to those contained in the English Representation of the People Act, 1917. The only other point of interest in the new Act was a constitutional one. It contained an amendment to an entrenched clause in the Act of Union, viz. the clause relating to disqualifications of members of H.M regular forces. It was necessary, therefore, that the Bill be reserved by the Governor-General for the special consideration of His Majesty's pleasure. The King's assent was declared by an Order in Council dated April 27, 1918.

Deeds Registries.—At the date of Union there were seven offices or registries existing in various parts of the Union to register or establish title to land or immovable property or to rights in respect of such property. The oldest of these offices was at Capetown, where the system of Roman-Dutch law for such registration had been brought by the early Dutch settlers. A Deeds Registry was established at Capetown as early as 1714, a Dutch Placaat of June 19 of that year having been declared in force there. When parts of the Eastern Districts, and Griqualand West and British Bechuanaland were at much later dates annexed to Cape Colony, the registries which had been created there were allowed to continue owing to the distances from Capetown. A Deeds Registry was also created for Natal in 1846—the year which saw its separation from Cape Colony. A Deeds Registry existed of course in the Transvaal in Republican times, but shortly after the annexation in 1901 a new registry was established, and a new system of registration created which was based on that of Cape Colony. The responsible Government Parliament in 1909 consolidated and amended the previous legislation, and this consolidating Act became the basis of a Union Bill drafted in 1911, which has now been passed into law as No. 13 of 1918. As regards deeds registries, the history of the Orange Free State has been similar to that of the Transvaal.

As an introductory observation to a review of this Act, it may be stated that the Act introduces no very radical changes. It is designed to effect uniformity of practice throughout the Union in the seven deeds registries the existence of which is left undisturbed until Parliament by resolution otherwise provides. It is designed also to provide the public with increased facilities in respect of transfer of land, registration of undivided shares in land, procuring documents of title and search as to title. An illustration among many of the previous lack of uniformity was in relation to the registration of mortgage bonds. Different practices and different forms of documents existed in the several provinces; thus,

an owner of properties which were in more than one province desiring to bond them all in respect of one large loan transaction was put to considerable inconvenience and expense.

Some of the changes effected by the new Act may now be indicated. South Africa is a country where, for historical reasons and owing also to the existence of large families amongst the landowning classes in the rural areas, and to other causes, the holding of land in undivided shares has been, and will for some time remain, a general custom amongst those classes. Under the new Act it will be possible, by one deed of transfer, to register the transfer of more than one piece of land, or undivided shares therein, to more than one person, or land held by persons in undivided shares, to one or more persons, instead of each transferor or transferee (as the case may be) being forced, as hitherto, to have separate deeds prepared in respect of his share. The convenience of the new procedure as well as the saving in conveyancing costs is obvious. The new provision is made, however, subject to one proper safeguard. If a joint owner desires to transfer a fraction only of his undivided share in the jointly owned land, or to mortgage or lease the whole or any such fraction, he must obtain a certificate of registered title of his aggregate interest in the land. The reason for this is, of course, the necessity for a proper identification of the share or portion transferred or mortgaged.

A further alteration is that no transfer in an undivided share of land which is intended to, or is calculated or purports to represent, a defined portion is to be registered. The reason for this is to prevent the confusion of titles involved in minute subdivisions. One concrete illustration may be given, though it would perhaps be correct to describe it rather as extreme than as typical. A person acquired one morgen (*i.e.* two acres) of a farm measuring 2527 morgen and obtained transfer of an undivided $\frac{1}{2527}$ share in a farm. Subsequently he transferred three fractional shares, each of which without doubt represented a defined extent, and the original share was subsequently held as follows :

$$\frac{30193}{97744360} - \frac{1}{48414} - \frac{296386007}{4705511234760} = \frac{1}{2527}.$$

The Act also simplifies the procedure in relation to the partition of land held in an undivided share so that each co-owner may be registered as owner of a defined share or shares. Obviously, from what has just been written, partitions of this nature are to be encouraged. It was necessary, however, to protect the bond-holder's or mortgagee's security over the partitioner's undivided share. This has been effected by requiring his consent to the partition and the making of a suitable endorsement on the bond indicating that the defined portion as determined on the partition is substituted as security. A similar safeguard is provided where the undivided share is subject to a lease or usufruct. The Act further extends the pre-existing practice of the issue by the registrars of deeds of certificates of title. Such certificates have always served a useful purpose. For example, an owner of two or more pieces of land contiguous to each other may obtain a certificate of *consolidated* title for the aggregate area, provided the whole of such area is situate in the same district. An owner may also obtain a certificate of *amended* title if, on a resurvey of the land, its boundaries are found to be incorrectly represented on the

relative diagram. Further, a certificate of *registered* title may be issued by the registrar to an owner after his land has been surveyed and a diagram of a portion thereof has been framed; or to an owner in lieu of title deeds lost or destroyed.

An entirely new provision has been inserted whereby a notarial bond may be executed and registered so as to be of force and effect either throughout the Union or only in the area of jurisdiction of one or more specified deeds registries.

The Act also contains new provisions relative to the registration of ante-nuptial contracts. Such contracts are executed immediately before the solemnisation of a marriage for the purpose of excluding during the subsistence of the marriage the common law incidents of marriage—such as community of property of the spouses and the *jus mariti*, and to provide for settlements on marriage. Every such contract must now be executed before a notary public, and, unless a superior Court otherwise specially orders, must be tendered for registration at a deeds registry within a month after its execution. In Natal it was sufficient, before the Act, if the contract were executed before two witnesses. The Act also makes provision for securing the transmission by the registrar in whose registry the ante-nuptial contract is registered to every other registrar of its essential particulars so that thereby creditors in all parts of the Union who may be affected by its existence have the opportunity of obtaining notice of its terms. Special provision is also made for the registration in any Union deeds registry of ante-nuptial marriage settlements or ante-nuptial contracts executed outside the Union. Notarial execution is not required in these cases, and of course no time limit for registration is fixed. The Court is given also a very wide discretion to authorise registration if good grounds are shown to exist.

It may be mentioned here that South African law, except in Natal, does not permit post-nuptial contracts between spouses or post-nuptial marriage settlements. The special Natal provision on this matter has been left untouched by the new Act. By the common law donations *inter vivos* between husband and wife during the subsistence of the marriage are absolutely prohibited; such a donation is therefore null and void, and of no effect whatever either against the donor or as against his or her creditors whether or not the donation has been completed by delivery, and even though the spouses may by ante-nuptial contract have reserved to themselves the right to make donations to each other. This rule does not apply, however, to donations *mortis causa* or to remunerating donations, or to gifts by the husband of clothing and jewellery in accordance with a wife's social position or the husband's pecuniary means. The Insolvency Act, 1916, contains special provisions in connection with such transactions—provisions which are outside the purview of this review.

The Act provides also for the registration of contracts under which landowners grant rights of prospecting for minerals on their property. In this matter the provisions of the pre-existing Transvaal law have been followed and extended with modifications throughout the Union. The absence of such provision in other parts of the Union has been the cause of some inconvenience, and has retarded mineral development. Similarly a registrar is enabled to issue certificates indicating that a vendor or transferor has, in parting with his land, reserved to himself the mineral rights thereon. Such a certificate, when registered against the title to

the land, will give the holder of the certificate a valid claim to the minerals reserved.

One of the miscellaneous provisions of the Act is of importance to the commercial community. A practice had grown up whereby banks and other lending institutions obtained from the person to whom a loan was made, or by whom a debt was incurred, a power of attorney to pass a bond over his immovable property. Armed with such power the lender did not make use of it until the donor of the power was in financial difficulties and likely to become insolvent. In the meantime the absence of the notice which registration of the power would have given that the property was for practical purposes burdened with a mortgage was obviously prejudicial to other creditors or prospective creditors of the donor of the power of attorney, and was also contrary to the principles of registration, the main object of which is to enable those who are willing to search the registries and ascertain the existence of any encumbrances over property. The new Act forbids the registration of a bond upon the authority of a power of attorney unless the power has been given within a certain short prescribed period before the bond is tendered for registration, or the power has itself been registered with a short prescribed period in the deeds registry. If the power was executed outside the Union the prescribed period will be deemed to commence from the date when the power was received by the donee in the Union. The Court is given wide powers to extend the prescribed periods or to exclude the operation of the section on special grounds.

The only other provision of the Act which deserves special mention is one whereby a Regulations Board is constituted to frame the regulations for the detailed administration of the Act. The Board consists of five of the seven registrars, with four other members representing the four provincial incorporated law societies. The regulations framed by the Board require the approval of the Governor-General in Council before they take effect. In connection with the regulations it may be mentioned that under the authority of the Act they fix the fees and charges which conveyancers, notaries and other legal practitioners may claim from their clients in respect of work done in preparing and registering deeds. Further, each registrar is empowered to act as a taxing officer and tax such fees and charges. It is hoped in this way to lessen very considerably the costs incidental to the transfer of land, to encourage the splitting up of large estates and thus facilitate transactions which are economically of such importance in South Africa.

Justices of the Peace.—The Special Justices of the Peace Act (No. 2) must be regarded as complementary to the Magistrates' Courts Act, 1917, which unified the law relating to those inferior Courts known as Magistrates' Courts. It is also to some extent complementary to the Criminal Procedure and Evidence Act, 1917, inasmuch as that Act applies to criminal procedure in all Courts, whether superior or inferior ; a Court of special justice was under it declared to be an inferior Court.

Act No. 2 is therefore a consolidating and unifying Act. The persons who have habitually been appointed special justices of the peace are usually landowners of repute in the district in which they live, though frequently government officials in outlying districts receive such appointments so that they may exercise limited judicial powers for the convenience of the rural population. Under the previous laws of the Cape, special justices held Courts and exercised jurisdiction at

places not less than ten miles from the Magistrate's Court; in other provinces there was no limit of radius except in the case of the government official. The new Act adopts a radius and fixes it as beyond twenty miles from the magistrate's court-house. The jurisdiction which the special Justices' Court exercises outside that radius is both criminal and civil.

The criminal jurisdiction is limited both by the class of offence and by the punishment which the special justice may impose. As regards the class of offence, jurisdiction is given in respect of simple common law offences such as theft, receiving stolen property, malicious injury to property and petty assaults the trial of which presents no difficulty. Stock theft is excluded from their jurisdiction; in the case of the other thefts, also in the case of receiving stolen property or malicious injury to property, the special justice has no jurisdiction if the value of the property the subject of the offence exceeds £5. Jurisdiction is also given in respect of any statutory offence or offence created by a statutory regulation where the maximum penalty which the statute or regulation allows is £25 or imprisonment for three months. Thirdly, jurisdiction is given without this limitation in respect of certain classes of offences which are peculiar to rural areas; *e.g.* offences relating to pounds, preservation of game, fish preservation, control of dogs, diseases of animals, squatting, grass-burning, eradication of noxious weeds, protection of forests, trees, flowers and vegetation, also offences under the masters and servants laws. But jurisdiction as to any of the above-mentioned offences is again limited by the punishment which the special justice may impose. He may not impose a fine exceeding £10; he may not impose imprisonment exceeding one month; he may not sentence to whipping (except that he may order moderate corporal punishment in the case of boys under sixteen); he may not sentence to detention in a reformatory. In order that the risk may be avoided of an inadequate sentence for a serious offence owing to the offender being prosecuted before a special justice of the peace, the special justice is required, if he discovers that the offence is beyond his jurisdiction, or, though within his jurisdiction, is of such a nature as not to be suitable for trial by himself, to transmit the proceedings to the magistrate in order that it may be dealt with according to law, *i.e.* in order that proceedings may be commenced afresh in the proper Court.

To avoid such improper convictions as may sometimes take place by persons inexperienced in law or procedure, every conviction and sentence of a special Justices' Court is made subject to an automatic review by the local magistrate, who may confirm or set aside or vary the conviction or sentence or reduce the sentence. In addition, every person convicted before a special justice has a right of appeal to the local Magistrate's Court, and has a further right of appeal from that Court to a superior Court.

The civil jurisdiction of the special justice is limited to claims not exceeding £25, and this is again limited by the jurisdiction being conferred only where the special Justices' Court sits more than twenty-five miles from the nearest Magistrate's Court and where the claim is in respect of a liquidated debt (*e.g.* goods sold and delivered), such cases being as a rule comparatively simple. Costs may be awarded in addition to the maximum amount. If the total amount of the claim exceeds £5, the defendant may require the case to be moved to the Magistrate's Court.

In addition to his judicial functions, the special justice has, under the Act, certain administrative powers and duties also. He is *ex officio* a commissioner of oaths for that magisterial district in which his area of office is situate (that is to say, within that area he may take affidavits and solemn declarations) ; he has also the powers of an ordinary justice of the peace (that is to say, he may issue warrants of arrest and search warrants on proper sworn information, and may in certain circumstances arrest without warrant) ; further, in certain circumstances he may swear in special constables.

Industrial Legislation.—The Factories Act (No. 30) is the first measure of the kind which has been placed upon any South African statute book, though proposals for the introduction of such a measure were considered by the late Cape Parliament in 1907 and 1908 and referred to Select Committees. The Bill for this present Act was prepared in 1913 after the strike riots, which occurred in July of that year, as the result of an undertaking given by the Government. In the following session, however, it was crowded out owing to the necessity of giving attention to other equally if not more important industrial or kindred legislation, such as the Workmen's Compensation Act, the Workmen's Wages Protection Act and the Riotous Assemblies Act. The question of regulating factories has since 1914 become a pressing matter, owing to the considerable industrial development which has taken place in the Union—a development largely due to economic conditions arising from the restrictions placed in other countries on exports to the Union. In other words, the Union has been forced to learn, and learn quickly, to produce articles which, but for the war, it might for many years have been content to import. But, though there has hitherto been no factory law, it must not be supposed that every industrial undertaking has been subject to no restrictions as regards hours and conditions of employment, use of machinery and the like. The carrying on of mines and works is regulated by an Act of 1912 under which an exhaustive code of regulations has been framed, and in that Act the expression " works " has a very comprehensive meaning, and includes chemical works, metallurgical works, reductions works, ore-dressing works, petroleum works, salt works, brick-making works, pottery works, sugar-mills, flour-mills, saw-mills, and any place where machinery is erected or used.

The new Act will not apply to mines, but will apply to a limited extent to all such works, except to reduction works on a mine. The limited extent to which the new Act will apply to all those other works is determined by the fact as to whether or not they fall within the definition of " factory " given in the Act. Now by this definition the test of what constitutes premises a factory is either the use therein of steam, mechanical or electrical power to make goods for trade or sale, or articles of food for human consumption ; or the use of the premises for certain trades and occupations when three or more persons are employed in connection with those premises on whole-time work. Portions of premises not so used are not regarded as part of a factory (*e.g.* portions used as warehouses). The Act does not apply to premises used by the owner in connection with the preparation of agricultural produce grown on a rural farm.

It will be seen that an attempt has been made to include in the one term " factory " and to subject to the Act not only such premises as are factories under English factory legislation, but also those which in

England would be " workshops." Premises subject to the Shop Hours Acts, that is to say retail places, and in some provinces wholesale shops, are not subject to the Factories Act.

Apart, however, from the definition of " factory," the Act was largely based on the New Zealand Factory Act of 1908, many of the provisions of which are reproduced in almost identical language.

The Act may be summarised as follows:

(1) The appointment of factory inspectors whose powers and duties are defined in Chapter I.

(2) A requirement that all premises which are factories shall be registered within six months after the coming into operation of the Act. Particulars must be furnished with the application for registration, which may be refused until certain prescribed structural and other defects ascertained by the inspectors are remedied.

3. Conditions are prescribed which factory owners must observe in relation to their employees. These include the maximum hours of work of persons under and over the age of sixteen, and of males and females respectively. An attempt has been made to ensure periodical holidays and half-holidays. Provision is made for the temporary extension by the Minister or by inspectors of the prescribed hours of work on payment of over-time or in certain businesses or seasonal occupations. The statutory public holidays must be kept by employers and employees subject to special exemptions allowed by the Minister in certain occupations. Females may not be employed within a month before an expected confinement or one month after confinement. The loss of wage-earning capacity thus temporarily caused may be made up out of grants from public moneys where the female is solely dependent on the wages she would otherwise have earned at the factory if the father is unable to provide for such loss.

(4) Other provisions prescribe a medical inspection of boys and girls and the possession by them of certificates of physical fitness for their work before an employer may utilise their labour.

(5) Special provision exists to prevent the sweating of out-workers —a provision which applies not only to factories as defined but also to merchants, wholesale-dealers, agents, and shop-keepers.

(6) Certain occupations may be declared to be dangerous; and in respect of an occupation so declared, special provisions exist for preventing or regulating the taking of meals by employees in the factory premises.

(7) Other provisions deal with the structure of factory premises with a view to the safety of the employees in the event of fire or to ensuring that the premises are kept in a fit and sanitary condition.

(8) Agreements whereby a factory owner and his employees purpose to contract themselves out of the Act are null and void *ab initio*.

The Regulation of Wages, Apprentices and Improvers Act (No. 29 of 1918) is a concomitant to the Factories Act. No previous legislation of a similar character will be found on any South African statute-book. In some respects the Act follows the English Trade Boards Act, 1909 (9 Edw. VII. c. 22), and incorporates almost *verbatim* many of the provisions of that Act. Chapter I deals solely with the fixing of a minimum rate of wages for women and young persons employed in certain scheduled occupations; but the schedule is rendered capable of extension, diminution or alteration by a Government proclamation. It may be mentioned

that " a young person " is defined as any person, male or female, under the age of eighteen. Chapter II., however, goes beyond the English Act and enables a wages board to fix the number of apprentices and improvers who may be employed in the scheduled occupations, the fixing of those numbers being in proportion to the number of skilled workers so employed. A wages board may also fix the minimum rates of wages which may be paid to apprentices or improvers so employed.

Chapter III., which contains general provisions, provides for the appointment of wages boards for any district. Such a board may fix rates of wages in its district in scheduled occupations for women, young persons, apprentices and improvers. These boards answer to the trade boards of the English Act ; but in addition to their duty of fixing rates of wages, they are empowered to consider and report on any matter referred to them by the Industries Department, affecting industrial conditions in scheduled occupations. In regard to wages it takes the initiative on complaints by employees.

The Dairy Industry Act and the Transvaal Mining Leases and Mineral Law Amendment Act may not altogether be inappropriately reviewed under the classification of Industrial Legislation, though it will be seen that neither Act falls within that term in its ordinary meaning. The Dairy Industry Act (No. 16 of 1918) is one to make provision for the registration of premises in which dairy produce is prepared ; as to the making of dairy produce and the registration of marks thereon and generally for regulating the dairy industry. " Dairy produce " is defined as meaning milk, condensed milk, cream, butter and cheese, and including also margarine and all substitutes for butter made from vegetable or animal fats or a combination of vegetable and animal fats. Technical definitions are also given to the expressions " butter " and " butter substitutes."

The objects of the Act are threefold : (1) preparation of dairy produce under good sanitary conditions ; (2) the prevention of adulteration ; (3) the protection of producers against unfair or fraudulent imitation by competitors and the further protection of the purchaser, and, inasmuch as the Union has become an increasing country of export, the effective administration of the Act will tend to ensure in other countries the good name of Union of South African produce. There is no precedent in South African legislation for this Act. Some of its provisions obviously have been covered by municipal by-laws and laws relating to the adulteration of food. Under the Act, so far as such by-laws are concerned, they will remain in operation to the exclusion of the Act in places where the local authorities are actually enforcing them. As regards the adulteration laws, the new Act is superimposed on them. The Act contains special provision as to the manufacture and sale of margarine. If it contains milk-fat or milk it must not be sold ; nor if it contains colouring matter ; and it must not be manufactured on the same premises as those on which any butter or butter substitute is manufactured. Every package and every wrapper containing it must be marked or branded with the trade name of its contents in large letters, and no other printed matter.

The Transvaal Mining Leases and Mineral Law Amendment Act (No. 30 of 1918) is an amendment to the very important Gold Law of the Transvaal (No. 35 of 1908), which since that year has remained unamended. The more recent discoveries in the eastern parts of the

Witwatersrand area opened up prospects of very extensive developments of the gold-mining industry. This induced the Government to consider whether the Act of 1908 did not require modifications to ensure that such developments should be effectively controlled, and also to ensure that the State revenues should obtain an adequate share in the profits derived. It will be necessary to refer shortly to previous gold laws in order to indicate the system under which the gold-mining industry of the Witwatersrand has grown up. This system, from the earliest times, has been the pegging of claims on land which, after having been prospected under statutory conditions and found to be gold-bearing in payable quantities, has been declared by a Government Proclamation to be a public digging. Any European of sixteen years of age and over had the right (a right which was continued under the Act of 1908) to peg not more than fifty claims on so much of the proclaimed public digging as was declared by the Government to be open to pegging, provided he obtained the necessary licence from the Mining Commissioner. Such a licence entitled him to hold for a month the claims he had pegged, but the licence was renewable from time to time for periods of three months at a time, subject always to the payment by him of the prescribed licence moneys, which were half a crown or five shillings per claim per month, according as the land was Crown land or private land. In this manner title to mining property was largely acquired ; for the holders of claims under licence were able to transfer the licence (which gave the right to mine), for value to the large and wealthy mining corporations which could raise sufficient capital to erect the plant and machinery, to sink shafts, to drill, to extract the gold-bearing soil, and to treat and effectively win the gold. But there was also another form of mining title besides claim-holding. The freehold owner of the land, or, if he had disposed of the mineral rights therein separately, the holder of those mineral rights, was entitled, before his land was declared a public digging, to select what was known as a *mynpacht*, which was an area bearing a certain fixed proportion to the extent of land which the Government proposed to proclaim. In respect of this area the Government issued to him a document called a "*mynpacht* brief." This became the holder's or owner's title to mine and work the minerals on or under the *mynpacht*. The *mynpacht* brief is renewable from time to time for periods of not less than five or more than twenty years, provided certain prescribed charges were periodically paid. It is hardly necessary to say that the *mynpacht* or a right to a *mynpacht* was a valuable asset to the farm-owner or holder of mineral rights over a farm. Such areas would also tend quickly to get into the hands of the wealthy corporations who possessed or could obtain the capital to work them. Such corporations would, of course, acquire them by purchase or would have at the outset acquired from the owner the mineral rights over a farm before it was proclaimed and so become the original *mynpacht* holders. The Act of 1908 for the first time superimposed on the previous system another method of working gold-bearing properties. This was a lease of a right to mine. That Act also re-enacted as its first principle a principle found in nearly every previous gold law, viz. that the right of mining for and disposing of all precious metals is vested in the Crown. Consequently the Government was authorised by the Act to deal with proclaimed land not only by declaring it open to the pegging of claims, but also by leasing to any person (which term would, of course, include a company) the exclu-

sive right to mine the precious metals on any defined portion of the land proclaimed. The right of leasing had, however, to be exercised by the Government subject to certain definite conditions laid down in the Act. For example, the portion to be leased must be defined in such a way as to constitute it a workable mining proposition, and then public tenders for the lease were to be called for. The Act also prescribed certain conditions which were to be inserted in the lease. The only conditions to which it is necessary to refer here were (1) that the lessee should provide within a specified time sufficient capital to equip the ground which he proposed to work and sufficient working capital necessary for its development as a mine ; (2) that a certain agreed percentage of the profits of working should be paid to the Government revenues, the mode of ascertaining such profits being determined by reference to the Gold Tax Law ; (2) that there should be continuous working to the Government's satisfaction, or in default forfeiture of the lease unless the Government consented to the cessation of work.

To advise the Government as to the consideration and acceptance of public tenders for such leases, a board of officials was instituted, the chairman of which was the Government Mining Engineer. It was not a statutory board, and had therefore no prescribed powers, duties or functions, but in practice the Government always acted upon its advice. From 1910 onwards some valuable leases of exclusive rights to mine on portions of the East Rand have been granted, and on the whole the system has worked well. Leases have been prepared in such a manner as to be advantageous to the lessee ; and advantageous also to the Government from the revenue point of view. The system also ensured an effective and economical administrative control over the portions of the Witwatersrand Gold Fields on and adjacent to the land the mineral rights in respect whereof were leased. The lease system, however, was capable of improvement and extension. As the payability of the Far East Rand as a gold-field was more and more proved, and with the prospect in view of the exhaustion of the older mines in the Central, the near East and the West Rand, it became important that the Government should be in a better position to attract large capital for the working of the new fields.

It is hardly necessary to say that a Commission of Inquiry was appointed, which, among other things, was to consider and report upon the desirability of the State itself undertaking the development of new gold-fields. As a matter of fact, the State had already power to do so under another clause of the Act of 1908, that is to say, it might declare proclaimed land to be a state mine subject to the sanction of Parliament. The majority report of the Commission was unmistakably against the State's employing public money in such a speculative venture as gold-mining, and the report pointed out other reasons based on economic and labour conditions which rendered state-mining inexpedient. The upshot was a Bill extending the leasing system. That Bill, which has become the Act under review, contains the following provisions :

(1) The Mining Leases Board receives a statutory constitution, and is bound by definite rules of procedure as to the manner in which it shall receive and deal with public tenders for leases of exclusive rights to mine or public diggings. It still remains in theory an advisory Board only, but its recommendations are to be laid before Parliament as soon as possible after the Government has taken action thereon. Further,

although the Government, after consideration of the Board's recommendation, may refuse to accept a tender or may accept it with such modifications as do not alter the Government's share of profits recommended by the Board, no departure from the Board's recommendations may be made as to the acceptance or refusal of a tender or as to the terms to be embodied in a lease, without the matter being again referred to the Board, and if, on such further reference, the Board reports against the proposal, no lease or terms not recommended by the Board is to be entered into, or, if entered into, is to be binding until approved by resolutions of both Houses of Parliament.

(2) A few alterations are made in the leasing provisions of the Act of 1908 with regard to the mode of tender, and more detailed provisions are enacted as to the forms of tenders. The object of this is to ensure the simultaneous consideration by the Board of the tenders. The detailed provisions also prescribe the particulars which the tenderer must furnish as to his financial proposals and his general scheme of working this area the subject of the proposed lease.

(3) Apart from the rent which is payable in respect of the lease (one-half of which rent will be paid to the owner in lieu of what he would obtain if the ground were worked under claim licence) the lessee must pay to the Government certain percentage based on profits. This percentage consists of two parts: (i) so much as he would pay under the law relating to the taxation of mining profits, *i.e.* now the Income-tax Acts; (ii) such further share of profits as may be agreed between him and the Government. That further share, when agreement is reached, is to be assessed, determined and recovered in accordance with a schedule annexed to the Act.

(4) The lease, unless abandoned by the lessee, continues until the minerals which can be profitably worked have been exhausted, or, in the Government's discretion, after consultation with the Board, the lease may be for a limited period only.

(5) The lease is liable to forfeiture for non-payment of the rent or for default in paying the moneys due to the Government which are based on profits.

(6) Amendments to a lease must be recommended by the Board to the same extent as its grant was originally recommended.

An amendment which alters the share of profits payable to the Government is not valid until approved by Parliament.

(7) An explanation has already been given of *mynpacht* title and the rights which may be acquired thereunder. The new Act enables any person who is entitled to a *mynpacht* to apply, when selecting his *mynpacht* area, for a lease of a right to work, in conjunction with his *mynpacht*, ground contiguous thereto; and the Government may grant such a lease on the Board's recommendation, if satisfied that the applicant can provide the necessary capital, and that the grant is in the public interest. Such a lease is subject to the same conditions as the other leases as regards payment to Government of share of profits—such payment being calculated on the amount derived from the working of the joint area. If the lessee is unable to fulfil the conditions of the lease he is liable not only to forfeit the lease but also the *mynpacht* worked in conjunction with the rights leased. The whole idea of the lease additional to the *mynpacht* but worked with it is that the owner or holder of mineral rights may, in selecting his *mynpacht*, have made

an indifferent or unfortunate selection, and, while it might not be worth his while to take up the *mynpacht* title, it would be if he had other land which could be worked with it. Thus, not only he, but the State and the public would indirectly benefit.

These are the main alterations in the Transvaal Gold law. The Act contains several minor amendments, but they could only be explained by reference to certain provisions of the Act of 1908 which would unduly lengthen this review.

Financial Legislation.—If there be excluded the usual Appropriation Acts, of which no less than ten were passed in 1918 relating either to the consolidated revenue fund or the railway and harbour fund, the financial legislation of the year is confined to two measures—the Customs and Excise Duties Act (No. 20 of 1918) and the Income-tax Act (No. 26 of 1918). The first named continued for one more year the increased duties of customs and excise which, first imposed in 1915, were continued with an annual duration in the two following years. In addition, it amends the 1914 Customs Tariff by making certain additions and by increasing certain duties. Further, it defines adulterated leather; it also increases the rebates allowed in the imposing of excise duties on spirits used in manufacturing. In the case of spirits used for industrial, scientific and teaching purposes, a rebate of the whole duty is granted.

The Income-tax Act fixed the rates of normal income-tax and super-tax for the current income-tax year ending June 30, 1918, at the same rates as in the previous year.

Cost of Living.—The Commission's (Cost of Living) Powers Act (No. 6). During the latter part of 1917 a Commission of three persons was appointed to inquire and report (*a*) as to the sufficiency or otherwise of the stocks, present or prospective, of essential foodstuffs in the Union or obtainable from outside it; the best means of supplementing them by importation, stimulation of local production, restriction of export or otherwise; (*b*) the increase in the cost to the consumer of the necessaries of life, and the measures which should be adopted for reducing such cost or preventing further increase therein, with special reference to the regulation of prices; the expropriation of stocks; the abolition or control of combines established for the purpose of destroying competition or maintaining prices; the suspension of import duties; the modification of railway rates; the acceptance by the Government of liability or partial liability for insurance against marine war risks on imported commodities; (*c*) whether undue profits were being made upon necessary commodities. The Commission found it necessary, shortly after commencing its inquiries, to be armed with powers to subpœna witnesses either to give evidence or produce documents. The Act gave the Commission this power, and prescribed penalties for disobedience to its orders in this respect as well as penalties for disturbing or interrupting its proceedings. The Commission's powers under the Act were, however, specifically limited to eliciting information on matters within its terms of reference; and it was also authorised to hear evidence *in camera*. The Commission's staff was placed under an obligation to preserve secrecy with regard to information obtained by it and subjected to criminal penalties for breach of such obligation.

Wheat.—The Wheat Conservation Act (No. 17) was rendered necessary by the threatened shortage of wheat in the Union owing to lack of shipping freight. Its enactment, together with the terms thereof,

was recommended by the Cost of Living Commission. The effect of the Act was to ensure that wheat should only be milled and the flour sold when the flour was mixed in certain prescribed proportions with grain other than wheat. Flour so mixed was called Government regulation flour. To carry out this the Act further provided for the keeping of accounts by millers and for the making of returns by all importers of wheat. The Act also enabled existing contracts to be revised by a Government official in order that they should conform with the Act. The Act was stated to be only for the duration of the war with power to the Government to terminate it earlier. Fortunately an improved wheat position enabled the Government to do this as from February 1, 1919—eight months after the Act came into operation.

Fugitive Offenders.—The Fugitive Offenders (Occupied Territories) Act (No. 3) enabled offenders fleeing from justice who made their way into the Union from any territory in military occupation by His Majesty's forces or the Union defence forces (*e.g.* German South-West Africa, German East Africa or Mesopotamia) to be arrested and returned to that territory as if the territory were a British possession within Part II. of the Fugitive Offenders Act 1881 of the Imperial Parliament. Such a provision became necessary in view of the fact that extradition treaties with Germany or other enemy belligerents were necessarily in abeyance; while the territory, not being a British possession, could not be brought under the Fugitive Offenders Act by the usual Order of the King-in-Council.

It was a simple matter for persons in the territory to be extradited to the Union, for martial law was probably in force in the territory; the Union Courts, however, very soon stopped persons in the Union being extradited to the territory, or even detained in the Union, for purposes of extradition thereto.

Pensions.—The War Special Pensions Act Amendment Act (No. 25) extends the scope of an Act of 1917 and removes certain anomalies which arise out of the wording of the Act. It is almost unnecessary to say that the amending Act increased and did not diminish benefits. Its general effect, however, was to assimilate Union war pensions to those granted in the United Kingdom under the most recent Royal Warrants; and it ensured, in accordance with schedules, the grant of certain minimum amounts to disabled soldiers and the dependents of those who had been killed or died on active service. The scheduled rates (both minimum and other rates) were based on wages and earning capacity according to South African standards.

Irrigation—By the Haartebeestpoort Irrigation Scheme (Acquisition of Land) Act (No. 32 of 1918), compulsory purchase powers are given in respect of purposes *collateral* to a large irrigation scheme. The existing law enabled such powers to be exercised for the direct purposes of the scheme; but the Courts restrained the Government in exercising expropriation powers for collateral or incidental purposes such as labour camps, supply depots, store-yards, power-lines, roads, railways, and construction plant.

Prevention of Corruption.—The Prevention of Corruption Act (No. 4 of 1918) was placed on the statute-book on the initiative of a private member. It is based largely upon and follows very closely the language of the Prevention of Corruption Act, 1906, of the British Imperial Parliament (6 Edw. VII. c. 34) which had, with suitable modifications, been

enacted for Cape Colony by Act 13 of 1909 of the Cape Parliament. The new Act, of course, extends throughout the Union, and applies to trustees of insolvent estates, executors, and liquidators of companies in addition to those who would be agents as defined in the English and Cape Acts. The term " agent " includes also persons serving under the Crown, or under a provincial administration, or under a local authority.

It is only fair to state that very few prosecutions were instituted under the Cape Act, and that there is no evidence that in any other part of the Union the giving or accepting of commissions is prevalent either amongst the commercial community or officials ; and, as far as officials are concerned, it would be misconduct under the Public Service Acts and lead to degradation or dismissal. It is possible that the existence of the Act on the statute-book *may* have a deterrent effect. It may be mentioned that the common law does not penalise bribery unless it is the bribery of an official.

Civil Service.—The Public Service Commission Amendment Act extends the period of office of the existing statutory commissioners till 1921 or till such earlier date as Parliament may by resolution fix. In the meantime a commission of inquiry is investigating all questions relating to the public service, including the necessity for such amendments of the Public Service Acts as might determine the continued existence of the statutory commission.

Constitutional Legislation.—The Electoral Census Further Provision Act (No. 15). Under certain provisions of the Union Constitution (the South Africa Act 1909, 9 Edw. VII. c. 9) a quinquennial census of the European male adults in the Union must be taken in order to form (*inter alia*) a basis for determining whether there shall be an increase in the number of members of the House of Assembly, the number of such members to be allocated to each Province, and any redistribution of seats in each Province as a result thereof. The first such quinquennial census was taken in 1911, and the second would therefore have been in 1916 ; but in that year large numbers of the European male adults were absent from the Union on active service and on other duties in connection with the war. In the early part of 1918 there was no immediate prospect of a termination of the war and of a return of such adult population, and it was therefore felt impossible to delay any longer the taking of the census or the appointment of the judicial commission which under the Constitution is to redelimit the electoral divisions. This Act was therefore passed, making the following provisions : (*a*) that a census should be taken in 1918, but that in the year 1921 another census shall be taken in accordance with the Constitution, so that eventually the provisions thereof as to the taking of a quinquennial census as from 1911 should be observed ; (*b*) provisions as to the particulars which shall be furnished by European householders in connection with the census ; (*c*) special provisions enabling European male adults who were on the census day absent from the Union on active service, or public service, or on employment in connection with the war, to be included in the census provided they were domiciled in the Union at the commencement of the war.

The census was taken on the night of Sunday May 5, 1918, and the names of 18,478 European male adults absent *for the reasons aforesaid* were included. As the total of the European male adults was shown at the census to be about 280,000 only, without the absent men,

the inclusion of the absent men was obviously of importance in securing a proper redistribution ; the principle of the constitution being an equal number of voters in each constituency in each Province as far as possible. The Bill was one which, inasmuch as it varied clauses of the Constitution, viz. ss. 34 and 41, it was necessary for the Governor-General, before assenting thereto, to reserve for the signification of the King's pleasure (s. 64). His Majesty signified his assent by an Order in Council dated April 27, 1918.

The Electoral Redelimitation Amendment Act (No. 31) is a corollary to the Act reviewed immediately above. The provisions of the latter were insufficient to effect all that was desired, inasmuch as the expression " male adults " in s. 34 of the Constitution is defined as meaning males of twenty-one years or upwards *not being members of His Majesty's regular forces on full pay*. The Judicial Commission which is appointed under s. 41 of the Constitution to redelimit the constituencies must compare the quinquennial census returns (viz. the returns of the 1918 census) with those of the previous census of 1911. Now, as it has just been pointed out, the 1918 census would include a large number of persons who were on active service, and those persons would be members of His Majesty's regular forces on full pay ; because the South African contingents in Europe, as well as those which served in East Africa, were —unlike those of Canada and Australia—part of the new British armies, and in addition many thousand South Africans went oversea independently and joined various units of the British armies. The Commission, therefore, in comparing the census returns, would, but for the new Act, have to exclude from consideration all who were shown by the returns to be members of His Majesty's regular forces on full pay. It was desirable to make a temporary alteration in s. 34 of the Constitution to enable the Judicial Commission to take these members into consideration. The alteration was made only in respect of the forthcoming delimitation inquiry. The Act prescribes that the Commission shall take into consideration those European male adults whose names appear in the census returns notwithstanding that they are members of His Majesty's regular forces on full pay, and notwithstanding anything contained in s. 34 of the Constitution. The Act also declares that the census of 1918 shall be regarded for the purpose of s. 34 as such a quinquennial census as is therein prescribed.

Another provision of the Constitution (s. 152) provides that, though the Union Parliament may alter any provision thereof, an alteration of certain sections (among which is s. 34) shall *not* be valid unless the Bill embodying it is passed by both Houses of Parliament sitting together and the third reading is agreed to by not less than two-thirds of the total number of members of both Houses at such a joint sitting. There are 170 such members. The third reading was agreed to by 143 members, there being no dissentients.

It may be of interest to mention that such a joint sitting is convened by the Governor-General by message to both Houses in accordance with s. 58 of the Constitution. The Speaker of the House of Assembly, in accordance with that section, presided over the joint sitting. He also, as a member of the Assembly, recorded his vote among the 143 who agreed to the third reading. There were no divisions, and therefore no numbers of members were recorded when the other stages of the Bill were taken.

This Bill also was one which for the reasons mentioned in the review

of the Census Act it was necessary for the Governor-General to reserve before assent specially for the consideration of the King's pleasure. His Majesty's assent was declared by an Order in Council dated July 19, 1918.

It may be wondered why the two last reviewed Acts were not included in one measure. The answer is simple: the first did not require the special procedure of both Houses sitting together, the other one did. It would have been as unconstitutional to submit the terms of the first to the special procedure as it would have been to omit this special procedure in the case of the last.

2. TRANSVAAL.

[*Contributed by* G. HARTOG, ESQ.]

Passed—16, of which 4 are Appropriation Ordinances.

Municipal Elections.—By Ordinance No. 4 of 1918 the system of proportional representation in municipal elections introduced in 1914 (see Ordinances 2, 6 and 10) has been repealed, and the repealed portion of the principal Ordinance (No. 8 of 1912), providing for the direct vote, and three-member wards, restored. Aliens cease to have the municipal franchise, the period of qualifying residence is increased from three to six months, and a criminal disqualification for a period of three years after the expiration of sentence for serious crime is provided for. The law also disqualifies "white men cohabiting with native or coloured women." Ownership of rateable property within a municipality confers a vote within the ward in which it is situated, whether the owner has resided in such municipality six months or not, but not more than one vote, so that where there is such property in more than one ward the owner, and failing him the Registration Officer, decides in which ward he is to be registered. Machinery is provided for dividing municipalities into wards, for determining the boundaries of wards, and for increasing or decreasing the number of wards, and for apportioning councillors amongst wards so altered and adjusted, for dividing wards into polling districts and for framing a voters' roll every *three* years.

Language.—Ordinance No. 15 of 1916, s. 2, providing for the publication in both the official languages (Dutch and English) of all municipal notices and forms intended for the notice or use of the public is amended by Ordinance No. 5 of 1918, so that any *one* member of a local authority may require the minutes of such local authority to be kept in both official languages, and also to be read or circulated in these languages, unless a majority resolve to read or circulate the minutes in Dutch and English alternately, or unanimously resolve to read or circulate them in either of these languages.

Local Government.—Ordinance No. 9 of 1912 is amended by Ordinance No. 6 of 1918 in a number of respects, of which the more important are:

(1) Powers enabling councillors to contract with municipalities of which they are members, provided that (unless they are interested solely as shareholders in a limited company, and the amount involved is not less than £100) they shall disclose their interest, if then existent, or within one month of the subsequent acquisition of such interest, unless

the Council expressly authorises such contract with any such councillor or partnership in which he has duly notified his interest. Non-disclosure renders a councillor liable to a fine of £50 or three months' imprisonment, return of any profits made, and vacation of his seat.

These powers, however, may not be exercised in any Council until expressly conferred by the Administrator by Proclamation after a resolution to petition for them has been agreed to by two-thirds of the councillors, published and copies of objections, if any, lodged. The provisions of the principal Ordinance prohibiting certain classes of professional men from acting for or against a Council of which they are members are altered to provide that a doctor may act for a Council if requested by a two-thirds' majority of the Council and with the consent of the Administrator.

(2) The law as to the use of money derived from sale of fixed assets for capital expenditure is relaxed. Hitherto no such moneys could be used for capital purposes until existing debts had been redeemed and extinguished. Now, the Administrator may permit the application of such moneys to such capital purposes as he may approve "where due provision has been made for redemption of any debt."

(3) Power is given enabling local authorities, subject to the approval of the Administrator, to establish, maintain and contribute to pension, benevolent or similar funds for their servants, to validate existing funds, to compel their servants to become members thereof and to contribute to such funds.

(4) Other powers given include powers (*a*) to prohibit or regulate street collections; (*b*) to render municipal services to hospitals and charitable institutions without charges or at reduced charges; (*c*) to refuse licences to refreshment-rooms not used solely as such; (*d*) to license all night cafés; (*e*) to establish or assist institutions or clinics for the care and welfare of newly born infants and to provide instructions for mothers thereat; (*f*) to establish or contribute to funds for indemnifying owners of carcases condemned at municipal abattoirs, and to require such owners to contribute; (*g*) to execute drainage works on private land, if need be, without the request of the owner.

(5) Village councils (rural local authorities) are brought into line with Ordinance No. 4 of 1918 as to qualifications of voters and town councillors, and the difficulties created by Ordinance No. 6 of 1914 in repealing s. 12 of the Local Government Ordinance of 1912, which provided, *inter alia*, for the framing of voters' rolls and the establishment of new village Councils, are removed by the restoration of a similar section, and Ordinance No. 6 of 1914 is in turn repealed.

Rating.—Ordinance No. 12 of 1918 amends (1) ss. 3 and 4 of Ordinance No. 1 of 1916 by excluding from rateable property an owner's present and reversionary rights to the surface of proclaimed (mining) land; and (2) s. 9 (which provides for the rating of all agricultural land, within municipalities, whatever its extent, at half its agricultural value plus any excess value) is amended so as to provide that agricultural land, *not being less than one morgen* (*2 acres*) *in extent*, shall be rated at its agricultural value only.

Teachers' Pensions.—Difficulties and anomalies in the Transvaal Teachers' Pensions Ordinance of 1916 are removed by Ordinance No. 15 of 1918; the more notable amendments being:

(1) The reduction of the scale of contribution of female teachers

appointed after January 1, 1917, under 35 years of age from 6⅔ to 5 per cent., rising to 6⅔ per cent. at 40 (instead of 8⅓).

(2) The retiring age for these is fixed at 50 as before, but for female teachers employed on or before December 31, 1916, an option is given them to choose 55 or 60 as the retiring age. They may choose 55 or 60 if 45 on January 1, 1917 or 35 on admission to the staff, and they may choose 55 as the retiring age if 35 on the former date or 30 on the latter.

(3) The rates of contribution of such female teacher, if under 40 when she elects to contribute, is reduced to 4 per cent. if the retiring age chosen is 60, a maximum of 5¾ if 55 is chosen, and a maximum of 6⅔ if 50 is chosen.

(4) Recognition for pension purposes is given to service prior to admission to the regular staff, whether such service was in a Government school or in a private school subsequently recognised as a Government school.

(5) No pension is to be less than £60 per annum.

(6) To mitigate heavy back payments due by teachers long in the service, a pension for the period between the close of the Boer War and January 1, 1905, is added without contribution.

(7) It is made clear that officers who elect to contribute to the fund and who are entitled to a gratuity under Act 19 of 1908 on final retirement have no claim thereto prior to retirement, but it is provided that such gratuity is to be used in reduction of their arrear contributions subject to payment of any excess on retirement, and similar provision is made in respect of claims to the Teachers' Provident Fund constituted under the Act of 1908.

(8) Provision is made for the recognition of service of teachers transferred from the service of one Province to another, provided there is reciprocity.

(9) Lastly, the definition of pensionable emolument is made to include climatic allowances.

Game Preservation.—Ordinance No. 9 of 1918 amends the Game Preservation Further Amendment Act 11 of 1909 so as to enable an owner of a farm (fenced or unfenced) or any person duly authorised by him in writing, to hunt buck in or out of season, whether for his own use or not (see Ordinance No. 21 of 1917), on permit from the Administrator—subject to such affidavit as may be required giving particulars of the game on such farm, and to the conditions and during the period specified in such permit.

Horse-racing and Betting.—Ordinances Nos. 7 and 8 of 1918 introduce minor amendments to the law on this topic. The former amends Ordinance No. 11 of 1917 by reducing the radius outside which Wednesday racing may take place from twenty to eighteen miles from the centre of Johannesburg; and the latter purports to alter the definition of race-card in the Horse-racing and Betting Restriction Act 37 of 1909 so that it is no longer an offence to sell or circulate, *e.g.* lists of weights off race-courses on other than race-days.

The Betting Ordinance (No. 13 of 1918) provides stringent penalties for the keeping, using or visiting *places* for betting, or the publication of betting-house advertisements except as is permitted by Act 37 of 1909. In effect the provisions of Proclamation 33 of 1901 as to betting-houses or "bucket-shops," repealed in 1909, are restored with improvements. In order, however, to provide an outlet for ante-post betting off race-

courses, provision is made enabling the Administrator to authorise a committee of eleven (representative of racing interests, and those of the general public) to keep open, on such days and at such hours as may be prescribed by regulation, a *place* or institution, to be approved by the Administrator, where bets may be made and settled on any horse, pony or galloway race. Only male, adult whites may bet there, and then only if they are duly admitted members.

Publication of tipsters' advertisements or invitations is forbidden under penalty, and persons who act as commission agents or intermediaries between book-makers or as agents thereof are guilty of an offence. The regulations provide, *inter alia*, the conditions under which any bookmaker may make bets there and for fixing the security to be lodged by them; for empowering the committee to settle betting disputes and for determining how the funds and assets of the committee may be administered and the profits applied.

Taxation.—To meet the financial needs of the Province the following taxation measures were passed:

(1) The Betting Taxation Ordinance (No. 13 of 1918), extending the 2½ per cent. tax levied upon book-makers in respect of bets paid out by them under the Licensing of Book-makers and Taxation Ordinance (No. 16 of 1917) to bets of book-makers duly licensed under this Ordinance made and paid out by them at the institution authorised under the Betting Ordinance (No. 13) of 1918.

(2) Dwelling-house and Bachelor Tax Ordinance (No. 16 of 1918). This imposes a tax upon persons occupying or entitled to occupy a dwelling-house on June 30 of the financial year in respect of which the tax is imposed. In the case of hotels, lodgings or flats, the person granting the right of occupation is to be deemed the occupier. The tax is at the rate of 5*s*. per room. "Room" is any separate chamber or apartment capable of being inhabited, but excluding passages, pantries, bath-rooms, cellars or store-rooms. Exempted are dwelling-houses unoccupied during the whole period of twelve months immediately preceding July 18 of the financial year for which the tax is payable; hospitals, charitable institutions and hostels maintained in connection with Government schools, dwelling-houses not of European construction and occupied exclusively by natives; servants' rooms situated apart from dwelling-houses; dwelling-houses occupied by widows or single women not liable to income-tax. *Bachelors*, who are defined as reputed unmarried adult males, and including widowers without minor children, are liable to a tax of £2 if over twenty-five years of age on July 1 in any year, and £1 otherwise. They are exempt if liable to the dwelling-house tax to the extent of such tax; if *bona fide* students; if on active service; if over seventy; or if natives. With the consent of the Administrator the tax authority may exempt from either tax: indigents; wives or other dependents of soldiers on active service solely dependent upon military pay and separation allowances, or if in receipt of relief from recognised charitable funds; persons incapacitated from earning a living by defects or wounds received in South African wars, or in the present war; mental deficients and lepers and their dependents.

(3) A tax is imposed by the Provincial Gold Profit Tax Ordinance (No. 19 of 1918) from and after July 1, 1918, in respect of each annual accounting period ending on or after April 1, 1918, on taxable profits derived by any person from the production of gold within the Province.

Taxable profits are defined as the gross receipts remaining after deduction of all expenditure allowable in terms of Chapter II. of the Union Income-tax Act (No. 41 of 1917). *Profits* are defined as the gross receipts remaining after deducting expenditure other than allowances for the redemption of capital permitted by the above Act.

The rate of tax is (1) 1 per cent. of the taxable profits where the profits exceed 10 per cent. of gross revenue, but do not exceed 15 per cent. (2) Where such profits exceed 15 per cent. the rate increases by after one-tenth of 1 per cent. for each additional 1 or portion of 1 per cent. of such percentage of profits to gross revenue, rising to a maximum of 4 per cent. when the ratio reaches 45 per cent.

3. NORTHERN RHODESIA.

[*Contributed by* CECIL BAYLEY, ESQ.]

Legislation in Northern Rhodesia is enacted either by Orders in Council or Proclamations by the High Commissioner, supplemented by regulations issued by the Administrator of the territory in the form of Government Notices. During the year under review legislation was almost entirely confined to Proclamations prohibiting trading with enemy subjects, the export and import of certain specified commodities and similar enactments arising from the war. Other Proclamations provide rules for the registration and solemnisation of marriages, the extension of the Fugitive Offenders Act, 1881, to the territory formerly known as German South-West Africa, the larceny of growing crops, and the importation of pirated editions of copyright publications.

An advisory Council of five members elected by the settlers has been instituted to assist the Administrator. The Council has no legislative or executive powers, and is purely an advisory body. The first meeting of the Council was held on September 25, 1918.

4. SOUTHERN RHODESIA.

[*Contributed by* CECIL BAYLEY, ESQ.]

Twenty Ordinances were enacted during the period under review, in addition to the application to the territory of the Provisions of the Geneva Convention and s. 1 of the Marriage of British Subjects (Facilities) Act of 1915. Ordinance No. 3 of 1918 also deals with this latter subject. An amendment to the Native Ordinance of 1901 is found in Ordinance No. 5 of 1908, whereby provision is made for the Administrator to frame such rules as may be considered necessary for the compulsory vaccination and medical examination of natives applying for employment. Further provision is made for the medical treatment of such natives if found to be suffering from infectious or contagious disease, and prohibiting their employment whilst thus affected.

Companies.—The Companies Amendment Order (No. 8 of 1918) makes provision for the reduction of share capital by Limited Liability Companies. All such reductions are subject to confirmation by the High Court of Southern Rhodesia and ample provision is made for the protection of creditors.

Diseases of Animals.—The Cattle Cleansing Ordinance, No. 9 of 1918, is directed against tick-borne diseases of stock and is an elaboration of

the Compulsory Dipping Ordinance of 1914, which is repealed by the present Ordinance. Practically all stock owners are now under an obligation to keep their cattle clear from ticks by the means of dipping, and any owner failing to do so is liable to be mulcted in heavy penalties. The Government is authorised to act on behalf of absentee owners, and any expense thus incurred may be recovered by summary execution.

Protection of Children.—Ordinance No. 12 is designed for the better protection of children. In the case of ill-treatment or neglect the offender may be arrested without a warrant, and the child taken to a place of safety and there detained until a magistrate has investigated the case and made such order as is considered expedient in the child's interest. Any person appointed *in loco parentis* takes the parents' place as legal custodian, subject to the Court's supervision, the magistrate being empowered to make an order that the parent or other person ordinarily legally liable for the maintenance of the child contributes towards his support. For the purposes of this Ordinance the husband or wife of a person charged with an offence is a competent witness for either the prosecution or defence, and the case may be heard *in camera* during the actual taking of the evidence of the child. Extended jurisdiction up to a fine of £100 or twelve months' imprisonment with hard labour or both such punishments is conferred on a magistrate for the purpose of this Ordinance, but he may alternatively commit the offender for trial if the case is of a serious nature, or bind him over to keep the peace towards the child who forms the subject of the complaint.

Other legislation contained in the ordinances, not enumerated above, concerns finance, local benefactions, locusts and pounds. There are also enactments as to local defence and war taxation, the latter taking the form of an income-tax of 1*s.* in the £1. No tax is charged upon incomes of £600 in case of unmarried and £1,500 in the case of married persons. There is also an Excess Profit Tax of 40 per cent., leviable upon incomes which exceed by more than 20 per cent. the amounts derived from any trade or business during the year ending March 31, 1914, payable only when such excess exceeds the income-tax payable under the new enactment.

V. BRITISH INDIA.

[*Contributed by* A. P. Muddiman, Esq., C.S.I., C.I.E.]

1. ACTS OF THE INDIAN LEGISLATIVE COUNCIL.

Acts passed—23.

Forests.—The Indian Forest (Amendment) Act (No. 1), makes three amendments in the Indian Forests Act, 1878. In the first place, it substitutes thirty for twenty years as the maximum period for which the Local Government may declare that a portion of a protected forest shall be closed. Secondly, it enables persons arrested, or property seized, on suspicion that a fresh offence has been committed, to be released on bail or on a bond, as the case may be. The third amendment is of a more important character, as it extends the liability, in respect of forest

fires, imposed by s. 78 of the principal Act upon privilege holders, and requires such persons, under penalty, to take steps of their own motion to extinguish forest fires and to prevent fires in the vicinity of a forest from spreading to the forest.

Cinematographs.—The Cinematograph Act, 1918 (No. 2), is the result of the spread to India of "picture palaces," which have proved very attractive to Indian audiences, and have accordingly been opened in all parts of the country in increasing numbers.

The Act has two purposes. In the first place, it seeks to provide for the safety of the audience, and in the second place to prevent the exhibition of objectionable films. It sets up a licensing system under which no cinematograph exhibition may be given except in a place licensed under the Act, and in compliance with the terms and conditions of the licence. The licensing authority is normally the District Magistrate, or, in Presidency towns, the Commissioner of Police; but there is power to appoint local bodies in place of these officials if the Local Government so desire in any area. No licence may be granted unless the licensing authority is satisfied that the rules made under the Act have been substantially complied with, and that adequate precautions have been taken for the safety of the audience. Every licence must further contain a condition that the licensee will only exhibit films certified as suitable for public exhibition. The Governor in Council is required to constitute authorities for the purposes of examining and certifying films as suitable for public exhibition, and a certified film is to be marked in a distinctive manner. Against the decision of the certifying authority there is an appeal to the Local Government, whose decision is final. The executive authorities have power in their jurisdiction to suspend the certificate of a film pending a reference to the Local Government, and the Local Government may either discharge the order or declare the film to be an uncertified film in the whole or any part of its province. The rule-making power under the Act is the Governor-General in Council, subject to a power of delegation to Local Governments in respect of rules for the purpose of securing the public safety.

Penalties, which include a daily fine for a continuing offence, are imposed for infraction of the Act, and there is power to a convicting Court to direct the confiscation of a film in respect of which an offence has been committed. To allow of the exhibition of films to limited audiences, and, to provide for special cases, the Local Government is empowered to exempt any cinematograph exhibition or class of such exhibitions from the provisions of the Act or the rules thereunder. The Act is not to come into force till such date as the Governor-General in Council may direct. The object of this clause is to give time for the necessary administrative machinery to be set up.

Indigo Cess.—In order to provide funds for the promotion of research into the cultivation of indigo in India, the Indigo Cess Act, 1918 (No. 3 of 1918), imposes a cess on indigo produced in India and exported to any port outside British India at the rate of one rupee per measure of 82 pounds avoirdupois. The cess is to be deemed a customs duty under the Indian Tariff Act, 1894. The proceeds of the cess are to be applied to finance such measures as the Governor-General in Council may consider necessary for the purposes of promoting research.

Coinage.—The Indian Coinage (Amendment) Act, 1918 (No. 4), gives statutory authority to discontinue the coinage of silver two-anna pieces

and substitutes nickel coins of that value. The necessity of economising silver and the popularity of the nickel one-anna piece, which was introduced in 1904, led to the Act being passed.

Criminal Justice in Aden.—In order to relieve the Resident in Aden of a portion of his duties as a Court of Sessions, the Criminal Justice, Aden (Amendment), Act, 1918 (No. 5), enables any Assistant Resident to be appointed an Additional Senior Judge.

Paper Currency.—The Indian Paper Currency (Amendment) Act, 1918 (No. 6), which is a war measure, continues the further inflation of the paper currency which was authorised by the similar Act of 1917 (No. 19), and increases the amount of the paper currency to six hundred and sixty million rupees.

Income-tax.—The Indian Income-tax Act, 1918 (No. 7), was one of the most important, and, as it turned out, one of the most controversial of the Acts passed in 1918. The basis of the law regarding income-tax prior to this enactment was the Indian Income-tax Act, 1886. This Act was amended in 1916 and 1917, and the imposition of a graduated scale of taxation on a system of assessment which divided income from different sources into water-tight compartments, had led to inequalities of incidence of taxation. The object of the new Act is to remedy defects of this nature and generally to prevent loss to the revenue by setting up a more comprehensive system of assessment. The main change introduced by the Act is that, instead, as under the old law, of levying the tax on the income of the previous year, the tax is provisionally assessed on that basis subject to an adjustment at the end of the year, when the provisional assessment is corrected on an examination of the actual income of the year of taxation.

Among other changes, provision is made on a more liberal scale for the calculation of depreciation of machinery and plant in the case of income derived from business, and also in respect of obsolete machinery or plant which has been sold or discarded. The previous statutory exemption from Indian income-tax in the case of shipping concerns which carry on business in British India is withdrawn and provision is made for the assessment of foreign and non-resident traders. The powers of the income-tax authorities to call for information and returns are enlarged, and the administrative machinery has been generally revised. An important concession to assessees is contained in s. 51, which enables questions of interpretation to be referred to the High Court for determination. Under the old law such questions were left to the decision of the revenue authorities. When the Bill was introduced it contained a provision which had the effect of bringing income derived from agriculture into consideration for the purpose of determining the rate at which the tax should be levied. The Act of 1886 exempted income derived from agriculture from assessment to income-tax, and it was intended to continue this exemption as far as taxation on that class of income was concerned, but it was proposed to take it into consideration for the purpose of determining the rate of taxation on the income of the assessee from other sources. The point had become important owing to the introduction of a graduated scale of income-tax.

This change was opposed by the land-holding interests, and after an animated debate the Government of India left the decision of the matter to the open vote of the Legislative Council.

The Council, by a majority of 30 to 25, rejected the proposed change.

The minority included five members of the Executive Council, and in the majority there voted the Commander-in-Chief and several subordinate officials.

Indian Defence.—The Indian Defence Force (Amendment) Act, 1918 (No. 8), allows persons other than European British subjects to be enrolled under the principal Act as long as there is a notification in force in that behalf. Under s. 12 of the Indian Defence Force Act, 1918, this class of enrolment was limited to a period of six months from the commencement of the Act.

Indian Soldiers.—The Indian Soldiers (Litigation) Act, 1918 (No. 9), repeals and re-enacts with amendments the Indian Soldiers (Litigation) Act, 1915, which was passed to protect Indian soldiers serving under war conditions from unfair treatment in respect of any civil and revenue litigation in which they might be concerned. The main change is that the Act requires the civil or revenue authority to suspend proceedings and communicate with the military authorities if it is satisfied that a soldier is unable to appear before it. The question whether the soldier is serving under war conditions is then determined by the military authorities, and not, as under the previous law, *in limine* by the Court concerned as a condition to be established prior to the suspension of the proceedings.

Usury.—The Usurious Loans Act, 1918 (No. 10 of 1918), is a further attempt to grapple with the problem of the extortionate money-lender which is even more complex in India than in other parts of the Empire. Every race which has held power in India has at some time or another felt it necessary to legislate for this purpose, and the legislative pendulum has at different times attempted to limit or even forbid the taking of interest. One of the oldest existing rules, which still has application in certain areas in India, is the rule of *damdupat* which forbids the recovery of a return in excess of the original loan. On the present occasion any attempt to fix a maximum rate of interest has been abandoned, and reliance is placed on discretionary relief by the Courts. If the Court has reason to believe that in a suit for a loan or the enforcement of a security for a loan the interest charged is excessive and the transaction as between the parties is substantially unfair, it may grant relief in respect of excessive interest and reopen the account between the parties and generally deal with any security given or agreement entered into for the purpose of granting equitable relief. The power to reopen an agreement purporting to close previous dealings is subject to the limitation that the agreement has not been entered into at a date more than six years from the date of the transaction before the Court and the powers generally do not enable any decree of a Court to be affected.

The Act endeavours to erect finger-posts for the guidance of the Court in its exercise of the wide discretionary powers it confers. "Excessive" is defined as meaning in excess of that which the Court deems to be reasonable, having regard to the risk as it appeared, or must be taken to have appeared, to the creditor at the date of the loan. The Court is further, in considering whether interest is excessive, to take into account the total advantage which may reasonably have been taken to have been expected from the transaction and to include in its view every form of charge or bonus in whatever shape, and, if compound interest is charged, to consider the periods of its incidence. Similarly guidance is afforded in determining the question of risk and whether a

transaction is substantially unfair. It will be seen that the Act has been framed after a consideration of certain provisions of the English Money-lenders' Act of 1900, and the decisions thereunder. The question of introducing a system of registration of money-lenders was considered but found impracticable, regard being had to the conditions of the country. The Insolvency Courts are authorised to exercise the powers conferred by the Act when dealing with the admission or amount of a proof of a loan in insolvency proceedings.

The Act is one which obviously depends for its failure or success on the spirit in which it is administered by the Courts, and its future history will be watched with great interest.

Indian Army.—The Indian Army (Amendment) Act 1918 (No. 11) makes a number of minor amendments in the Indian Army Act 1911—speaking generally, they are either to remedy administrative difficulties which the war had revealed in the law or to assimilate the provisions of the Indian Army Act more closely to that of the English Army Act. In deference to popular sentiment opportunity was taken to substitute throughout the principal Act the word "Indian" for the word "native."

Company Law.—The Indian Companies Restriction Act 1918 (No. 12) is a war measure in force only for the period of the war, and six months thereafter. Its object is to control the withdrawal of capital from the money-market. No new company is to be registered, nor is a company to increase its share capital or issue debentures without a licence from the Governor-General in Council. The Act does not apply to private companies.

Paper Currency.—The Indian Paper Currency Act, 1918 (No. 13), is another war measure which is in force for the same period as the Act just dealt with. It enables silver held by the Government in the United States of America, or in course of transmission therefrom, to be treated as part of the reserve referred to in s. 19 of the Indian Paper Currency Act, 1910.

Gold Coinage.—Under the Indian Coinage Act, 1906, there was no power to coin gold in the Indian mints. The demands of the war on silver rendered this step advisable. The Gold Coinage Act, 1918 (No. 14 of 1918), which is also a temporary war measure, enables a gold mohur, or fifteen-rupee piece, to be coined in the Indian mints. The standard weight and fineness of the coin are exactly those of the English sovereign.

Validation.—The Enemy Trading Orders (Validation) Act, 1918 (No. 15 of 1918), terminates doubts as to the validity of notification orders and rules made under the Enemy Trading Ordinance, 1916. The repeal of that Ordinance by the Enemy Trading Act, 1916, had rendered the legal position uncertain.

Provisional Collection of Taxes.—In order to prevent the levy of customs or excise duties being evaded during the passage through the Legislative Council of taxation Bills affecting them, the Provisional Collection of Taxes Act, 1918 (No. 16 of 1918), enables these duties to be collected from the date of the introduction of a Government Bill affecting these duties at the rates imposed in the Bill. In order that the Act may operate, the Bill must contain a declaration that it is expedient in the public interest that the Bill should have temporary effect under the provisions of the Act. The period for which provisional collection can be made under the Act is limited to thirty days from the introduction

of the Bill. If the Bill is rejected a modified provision is made for any refunds which may be necessary.

Non-ferrous Metals.—The Indian Non-ferrous Metal Industry Act, 1918 (No. 17 of 1918), is an adaptation to Indian conditions of the English legislation on the same subject. It is a temporary war measure, but its duration differs from that of most of Indian war legislation in that it is in force for the period of the war and five years thereafter.

It requires all persons who carry on the business of extracting, smelting, dressing or dealing by way of wholesale trade in non-ferrous metals, to obtain a licence to do so. Licences, if the necessary formalities are complied with, can be claimed as a matter of right unless the applicant is affected by enemy taint or is a company which has issued share warrants to bearer and has not given the notice required by the Act to the holders of bearer shares to have their names inserted in the company's register.

Extensive powers to require information in order to ascertain the actual control of the business are given by the Act, and these powers are also conferred on a company in respect of its share and debenture holders in order to ascertain the actual beneficial owner and his nationality.

The metals to which the Act applies are zinc, copper, tin, lead, aluminium and any other metal to which the Act may be applied by notification.

Suspension of Sentences on Indian Soldiers.—The Indian Army (Suspension of Sentences) Amendment Act, 1918 (No. 18 of 1918), makes certain minor amendments in the Indian Army (Suspension of Sentences) Act, 1917.

Indian Defence Force.—The Indian Defence Force (Further Amendment) Act, 1918 (No. 19 of 1918), was passed to satisfy the patriotic desire to be enrolled in the new Defence Force of veterans who had reached the age of fifty. It provides for this by an amendment of the Act of 1917, and allows European British subjects, notwithstanding their age, to volunteer for service as members of the Indian Defence Force.

Foreign Interests in Indian Companies.—The Indian Companies (Foreign Interests) Act, 1918 (No. 20), prohibits the alteration of articles of association restricting foreign interests in such companies as the Governor-General in Council may notify, unless the consent of the Governor-General in Council has been obtained to the change. The Act is on the same general lines as the English Act on the same subject, and is part of the general imperial policy to prevent foreign control in respect of industries of national importance.

Indian Defence Force.—The Indian Defence Force (Foreign Service) Amendment Act, 1918 (No. 21 of 1918), extends the liability of men enrolled for general service under the principal Act. Service for persons of this class was limited to any place in India, but by the Act they may now be required to serve "within or without the limits of India."

Bronze Coin.—The Bronze Coin (Legal Tender) Act, 1918 (No. 2 of 1918), enables coin of this class coined outside British India to be used as legal tender in India if the coins satisfy the requirements of the Indian Coinage Act, 1906, and the Governor-General in Council, by notification, directs their issue. The Act was another example of coinage legislation arising from the strain on the coinage caused by war conditions.

Cotton Cloth.—The great rise in the price of cotton piece goods, which was also a result of the war, had caused great hardship to the poorer

classes. The Act takes power to provide for a cheap supply of cotton cloth and sets up a system of controllers to supervise the manufacture, transport, distribution, sale and purchase of cotton cloth. The controller is empowered to require manufacturers of cotton cloth to manufacture standard cloth and enables him to fix the wholesale price. Similarly, the Local Government is empowered to fix prices for retail sale. The Controller is to be assisted by advisory committees to be appointed under the Act. Standard cloth is only to be sold retail by licensed vendors at fixed prices in accordance with the terms of their licences, and a substantial penalty is provided for the infraction of this provision.

2. MADRAS.

Acts passed—3.

Intestate Succession.—The Mapilla Succession Act, 1918 (No. 1 of 1918), provides that in the case of Mapillas of a particular class the rules of Mohammedan law shall apply on an intestacy to the devolution of property to which the deceased was exclusively entitled.

Food Adulteration.—The Madras Prevention of Adulteration Act, 1918 (No. 3), generally follows the lines of similar recent Acts in other provinces. It is rather more favourable in that it allows the vendor or manufacturer to set up several pleas which are not specificially provided for in some other local Acts of the same class. The operative portion of the Act extends only to such areas as may be notified by the Local Government in this behalf. The remaining Act passed during the year is of purely local interest.

3. BOMBAY.

Acts passed—9.

Primary Education.—The Bombay Primary Education (District Municipalities) Act, 1918, provides for the extension of primary education in municipal areas outside the city of Bombay. It is to be read as part of the Bombay Municipal Act, 1901. It enables a municipality which has satisfied the Local Government that it has made adequate provision for free primary education to declare primary education compulsory within the municipal area for children of either sex. Penalties are imposed on parents who fail without reasonable excuse to cause their children to attend and an employer who interferes with the efficient instruction of children to whom the compulsory provisions may be applied. Power is given to the municipality to impose or increase municipal taxation for the purposes of the Act.

Rent.—The Bombay Rent (War Restriction) Act, 1918 (No. 2), is a temporary measure in force for the continuance of the war, and for such period thereafter not less than six months and not more than two years as the Governor in Council may direct. Somewhat elaborate provisions determine the standard rent, and the rent so determined is alone to be recoverable, except as otherwise provided. The Act does not apply to rooms in an hotel or boarding-house, but otherwise applies to all buildings or parts of buildings let separately and to land let separately for trade purposes.

Special provisions are made to cover the case of improvements, alterations in the terms of tenancy, and increase in rates payable by landlords.

Fines or premia on renewal or continuance of tenancy are forbidden, and if paid are recoverable.

The Act, in the first instance, extends to the city of Bombay and adjacent areas, and the municipal district of Karachi, but may by notification be extended to any other area in the Presidency. By the Bombay (War Restriction Act, No. 2) Act, 1918 (No. 7), further special protection was extended in the case of small tenants holding at a rent under twenty rupees per month.

Medical Practitioners.—The Bombay Medical (Amendment) Act, 1918 (No. 4 of 1918), reconstitutes on more popular lines the Medical Council provided for under the Bombay Medical Act, 1912.

Aliens.—The Bombay Disqualification of Aliens Act, 1918 (No. 6 of 1918), disqualifies aliens from being members of, or voting at elections for, local boards, port trusts and municipalities. An alien includes every person who is not a British subject or a subject of a native State in India.

Cattle-keeping.—The predatory habits of the cattle of the Presidency received legislative attention in the Bombay District Police (Amendment) Act, 1918, which enables somewhat stringent action to be taken against owners of cattle in notified areas who fail to restrain their recalcitrant kine at night. It is believed that the Act was intended to discourage the growth of an amiable custom by which cattle were set free at night in the firm confidence that they would find their own fodder at the expense of the neighbouring crops.

The other Acts passed during the year were of minor or purely local interest.

4. BENGAL.

Acts passed—5.

Liquidation of Co-operative Societies.—An amendment to the Bengal Public Demands Recovery Act made by Act 1 of 1918 enables contributions to the assets of a Co-operative Society under liquidation on the cost of such liquidation to be recovered under the provisions of the Act.

Sonthals and other Aboriginal Tribes.—The Bengal Tenancy (Amendment) Act, 1918 (No. 2), affords special protection to the Sonthals of certain districts with power to extend the like protection to other aboriginal castes or tribes.

Aliens.—The Bengal (Aliens) Disqualification Act, 1918, is on the same lines as the legislation in Bombay already dealt with under this head.

Serampur College.—The Serampur College Act, 1918 (No. 4), is of general interest only for the reason that its preamble recalls the fact that the College is constituted under a Royal Charter of his late Danish Majesty, King Christian the Sixth, dated in the year 1827, and that this Charter was expressly saved by the Treaty of 1845, by which Serampur was transferred to the British Government.

The remaining Bengal Act is of purely local interest.

5. BIHAR AND ORISSA.

Acts passed—3.

Indigo.—The Champaran Agrarian Act, 1918 (No. 1), had its origin in disputes in that district between indigo planters and their tenants

which had attracted considerable public attention. It was a common condition in leases in that district that the tenant should set aside a portion of his holding for the cultivation of indigo. The Act declares a restrictive condition of this kind to be void. In many instances rents had been enhanced in consideration of the landlord releasing the tenant from the liability to grow a particular crop, and the Act reduces all such enhancements by a sum varying from 20 to 26 per cent.

The other two Bihar Acts call for no special notice.

6. ASSAM.

Acts passed—1.

Excise.—The only Act passed in the year was an Act making a small amendment in the local excise law.

7. UNITED PROVINCES.

Acts passed—3.

All the Acts passed are of purely local interest, the most important being one amendment of the United Provinces Municipalities Act, 1918.

8. CENTRAL PROVINCES.

Acts passed—1.

Terminal Tax.—An amendment of the Central Provinces Municipal Act, 1903, enables a terminal tax to be imposed on foods or animals brought into or taken out of a municipality where an octroi tax had been in force, subject to the condition that both taxes are not to be imposed at the same time.

9. PANJAB.

Acts passed—8.

House Accommodation.—The Simla House Act, 1918 (No. 1), deals with the difficulties of housing which had been caused in that place owing to the influx of officials and others due to the conditions imposed by the war.

Subject to certain exceptions dealing mainly with old tenants and business occupants, power is given to appropriate any house for occupation by a Government or municipal servant compelled by his duty to reside at the headquarters of Government. At the same time enhancements of existing rent save on the ground of improvement are forbidden. A House Accommodation Committee is to be constituted under the Act to deal with the conflicting interests involved. The definition of " house " in the Act includes a flat, but does not include a room in an hotel or club.

Terminal Tax.—An amendment of the Panjab Municipal Act, 1911, allows a terminal tax on goods to be imposed in municipalities.

Habitual Offenders.—The Restriction of Habitual Offenders (Panjab) Act, 1918 (No. 5 of 1918) marks a departure in local legislation of considerable importance. The practice in the past has been to maintain the great Codes of India, both civil and criminal, as a preserve of the central legislation, and local amendments of these Codes have been infrequent and of minor importance. The Act under consideration is in reality a

local amendment of those sections of the Code of Criminal Procedure which enable security to be demanded in what are commonly known as bad livelihood proceedings. In circumstances in which an order under s. 110 of the Code of Criminal Procedure, 1898, could be made, the Court may, either in addition to or in lieu of an order for security to be of good behaviour, pass an order of restriction. An order of restriction may require the person against whom it is made to restrict his movements to the area specified in the order or to report himself at times and places so specified, or may impose both these obligations. The Court, in prescribing an area of restriction, must be satisfied that the person in respect of whom the order is made has adequate means of earning his livelihood within the area. Substantial terms of imprisonment are provided as penalties for the violation of orders of restriction, and a power of arrest without warrant is given to the police and certain village officials in respect of offenders of this class.

Validation.—The Panjab Courts Act, 1918 (No. 6 of 1918), was passed to remedy a mistake which must be very rare in the history of legislative institutions. The Panjab Courts Act of 1914, as assented to by the Lieutenant-Governor and the Governor-General contained a clause which had not been passed by the Legislative Council. The mistake appears to have been unnoticed for several years, and the validating Act was passed to determine the anomalous position which had thus arisen.

Juvenile Smoking.—The Panjab Juvenile Smoking Act, 1918 (No. 7 of 1918), is an example of modern social legislation which is rather a novelty in the Indian statute-book. The sale of tobacco to children apparently under the age of sixteen is prohibited under penalty. Further, if a child under the age of sixteen is found smoking in a public place various local magnates are empowered to seize and destroy his tobacco.

Village Night Patrols.—In contrast to the foregoing Act, the Panjab Village and Small Towns Act, 1918 (No. 8 of 1918), has a distinct medieval flavour in its recognition of the duty of the citizen personally to perform duties of watch and ward. It enables the executive authorities in times of emergency to require the inhabitants of rural areas to perform patrol duties.

The other Panjab Acts passed during the year are of minor importance, and present no features of general interest.

10. BURMA.

Acts passed—1.

The only Act passed in the year in Burma deals with the regulation of the petroleum mining interest in Burma. The growing importance of the industry led to the introduction of the measure, which repeals the Upper Burma Oilfields Regulation, 1910.

11. REGULATIONS UNDER S. 71 OF THE GOVERNMENT OF INDIA ACT, 1915.

Regulations made—1.

The British Baluchistan Courts Regulation, 1918, enables an additional Judicial Commissioner to be appointed in the Court of the Judicial Commissioner of British Baluchistan.

12. ORDINANCES UNDER S. 72 OF THE GOVERNMENT OF INDIA ACT, 1915.

Ordinances made—2.

Currency.—The India Paper Currency Ordinance, 1918, and the Gold Coinage Ordinance, 1918, were respectively repealed and re-enacted by the Indian Paper Currency Act, 1918, and the Gold Coinage Act, 1918. The provisions of the Ordinances have, therefore, already been sufficiently indicated by the comments on these Acts.

VI. EASTERN COLONIES.

1. CEYLON.

[*Contributed by* LEWIS MAARTENSZ, ESQ., *First Additional District Judge, Colombo.*]

Ordinances passed—25.

Defence Force.—The object of the Local Forces Ordinance (No. 1) is to give effect to a desire that the name of the local forces of the Colony should be changed to "Ceylon Defence Force," and that a corresponding change should be made in the designation of its members.

Money-lending.—The Money-lending Ordinance (No. 2) makes provision for the regulation of money-lending transactions. By this Ordinance:

(*a*) The Courts are empowered to reopen and revise all money-lending transactions in which the interest charged is excessive or the transaction otherwise harsh or unconscionable or induced by undue influence (s. 2).

(*b*) The maximum rate of interest ordinarily chargeable on loans is fixed (s. 4).

(*c*) Money-lenders are required (1) to keep regular and intelligible accounts in books properly paged and bound in such a manner as not to facilitate the elimination of pages or the interpolation or substitution of new pages; (2) on request in writing to furnish borrowers with true and certified copies of their accounts; (3) to give receipts for all payments on account.

(*d*) Every promissory note given as security for the loan of money must set forth the capital sum borrowed, the amount deducted or paid at the time of loan by way of interest, and the rate of interest payable in respect of such loans (s. 10).

The taking of a promissory note in which the sum stated to be due is fictitious or in which the amount due is left blank is made a penal offence (s. 13). A transaction is said to be induced by "undue influence" where the relation subsisting between the parties is such that one of the parties is in a position to dominate the will of the other, and use that position to obtain an unfair advantage over the other (s. 6). In view of the practices attributed to money-lenders known as "Afghans," it is provided:

(1) That the besetting by a money-lender of the residence or place of business or employment of his debtor shall be a penal offence.

(2) That any money-lender who, by visiting the residence of any person,

induces the wife or child of such person to contract a loan without his written consent shall be guilty of an offence.

(3) That any person belonging to the class commonly known as "Afghans" who enters into a money-lending contract as lender shall, until the contrary is proved, be presumed to be a person carrying on the business of money-lending.

Mortgages.—The Mortgage Ordinance (No. 8) was enacted to deal with the situation created by the judgment of the Supreme Court in the case of *Sithambaram Chetty* v. *Fernando and Fernando*, No. 46,630 of the District Court of Colombo. That case, in effect, decided that, under the Roman-Dutch Law, a mortgagor who has mortgaged his land to secure future advances is free to mortgage it again or sell it altogether, subject only to such amount as may be due on the original mortgage at the date of the second mortgage or sale, and that any further advances made by the original mortgagee are postponed to any advances made by the subsequent mortgagee and do not affect the subsequent purchaser, even though the original mortgagee at the time when he made the advances had no notice of such subsequent mortgage or sale.

Under the Roman-Dutch Law "a hypothec can be constituted not only absolutely (pure) but also under a condition, and not only absolutely for an absolute debt, but also absolutely for one to become due from a particular time, or suspended by a condition" (Voet, lib. xx. tit. IV. s. 30).

A distinction is, however, drawn between a condition which can be fulfilled against the will of the debtor, and one which cannot arise against his will.

In the former case, where there is competition between the mortgagee and a subsequent hypothecary creditor, the hypothec dates from the time when the hypothec was created, and not from the time of the fulfilment of the condition.

In the latter case the law, as stated by Voet, is as follows: On the other hand, if the nature of the obligation to which a date or condition was annexed be such that it cannot arise against the will of the debtor, it must on the contrary be said that he will be preferential to whom the pledge was constituted for the absolute and later debt before the fulfilment of the condition of the prior obligation; as, for example, when one has previously agreed with another that "if money be received from him (in loan) a thing shall be bound to him;" or when one accepts a pledge for a sum which was to be paid within a certain time, and, before it was paid, the thing has been pledged to another; for he who had thus bound the pledge to the first could decline to receive the money, and so had it in his power to determine whether he would bind himself by accepting the money, and therefore neither could the condition be fulfilled nor any debt arise against his will. Indeed, in the intermediate time before payment, there was neither an absolute nor a conditional obligation, but only a hope (*spes*) that the principal contract would be postponed; and therefore necessarily the pledge was futile in as much as it could not subsist without a precedent obligation absolute or conditional. In the case referred to the mortgagor mortgaged certain property to secure advances to be made in the future. Before any advances were made the property was sold without any notice to the mortgagee.

The mortgagee subsequently made an advance in pursuance of the mortgage to the mortgagor and subsequently put the bond in suit.

The Supreme Court held that no distinction could be drawn between the case of a mortgage followed by a mortgage and the case of a mortgage followed by a transfer, and declared that the property mortgaged was not bound and executable in the hands of the transferee.

The object of the Ordinance is to declare the law on this point in the sense in which it had been hitherto understood in commercial and legal circles. S. 2 accordingly provides that in the following cases, that is to say:

(*a*) Where a mortgage of immovable property is given to secure future advances (whether with or without any previous advances or other liability).

(*b*) Where such a mortgage is given to secure the floating balance from time to time due upon account.

(*c*) Where such a mortgage is given to secure a contingent liability arising out of a particular relationship—not being a liability of the nature of those referred to in either of the last two preceding paragraphs. Such mortgage shall be effective to the full extent of the charge intended to be created thereby as against any person claiming under any subsequent mortgage or transfer, notwithstanding that no money may have been actually due at the date of such subsequent mortgage or transfer in respect of the liability intended to be secured, and irrespective of the actual amount so due on such a date.

For the purposes of this section the expression "transfer" includes any instrument creating any interest in immovable property.

The Ordinance is applicable to all mortgages or transfers whether executed before or after its commencement. But it does not affect the right of the parties in the case referred to or in any other case in which the decision of the Supreme Court has been followed prior to the commencement of the Ordinance. The Ordinance does not affect the priorities attaching to instruments as the result of prior registration.

Business Names.—The object of the Registration of Business Names Ordinance (No. 6) is to enact for this Colony, and for the same purpose, an Ordinance corresponding to the Registration of Business Names, October 1916.

The Ordinance provides that all individuals or firms carrying on business under a business name which does not disclose the actual names of those individuals or of the partners of the business, shall register their business names. The same obligation is imposed on every firm any of whose partners have at any time changed their names, and upon every individual trader in the same position. Where any such business name is registered the nationality of every person composing the firm and any previous name or nationality which he may have borne must also be registered (4).

The change in the constitution of a firm whose business name is registered must be notified in due course.

Failure to comply with the requirements of the Ordinance as to registration subjects the defaulter to a fine and makes his contract unenforceable. The rendering of false particulars is punishable by a fine.

The Registrar may refuse to register or may require the removal of any business name which, having regard to the nationality of the persons by whom the business is wholly or mainly owned or controlled, is calculated to mislead the public (s. 15).

S. 15 further provides that the business name of any business which

is owned or controlled wholly or mainly by foreigners shall be deemed to be misleading, unless it contains some indications sufficient to intimate this fact. In this provision the Ordinance goes beyond the English model.

S. 19 of the English Act which requires that the names of all persons constituting the firm, and their nationalities and previous names and nationalities should be mentioned in all trade circulars, catalogues, etc., is omitted.

S. 19 goes beyond the English Act. It provides for the case of a business being carried on in the Colony by a local manager for and in the name of an individual or a firm abroad. In such a case the local manager is by the section subjected to the same obligations, liabilities and penalties as the partners in the firm or his absent principal.

The obligation to register also extends to cases in which a firm, individual or corporation carries on business in the Colony as a nominee or a trustee of some other person, firm or corporation, or as a general agent for a foreign firm.

In such a case the registration includes not only the ordinary particulars, but also particulars as to the person, firm or corporation in whose behalf the business is really carried on. Corporations are dealt with by Ordinance No. 7, which is in form an amendment of the Joint Stock Companies Ordinance, 1861.

Joint Stock Companies.—No. 7 prohibits (1) the incorporation of companies or continued incorporation of companies under names which are calculated to mislead the public as to the nationality of those who control them. (2) The incorporation of companies under a name identical with that by which any other company shall have been incorporated, or under a name so nearly resembling the same as to be calculated to deceive (s. 2). It also requires the registration of the names and nationalities and previous names or nationalities of directors of companies (s. 4).

The local law made no provision in regard to companies incorporated outside the Island. S. 5 introduces into the Local Companies Ordinance provision on the same lines as s. 174 of the Companies Consolidation Act, 1908.

The only point in which this section departs from the English model is that, among the particulars required to be furnished, are the nationalities and former names and nationalities of all the directors of the companies in question.

Prædial Products.—This Ordinance, No. 16, substitutes strokes with a cane or rattan for lashes with the cat in the execution of a sentence of whipping inflicted for theft of prædial products. The Ordinance was introduced in accordance with the wishes of the Secretary of State for the Colonies, that in all British Colonies in which whipping is a punishment for such thefts the cat should no longer be used.

Petroleum.—S. 19 of the principal Ordinance authorises any person who is licensed to keep petroleum to hawk such petroleum, provided that the quantity conveyed at one time in any one carriage does not exceed twenty-four gallons, except when conveyed in a cart specially constructed for that purpose, which has been licensed by a local authority for the conveyance of petroleum.

This amending Ordinance No. 18 empowers the Governor in Executive Council to make rules regarding the licensing of carts for the conveyance of petroleum. The rules may provide for (*a*) the fee to be charged for

the licence; (*b*) the maximum quantity of petroleum which may be carried in a licensed cart; (*c*) the conditions which may be inscribed in a licence; (*d*) the duration of the licence, and (*e*) the renewal of the licence.

Roads.—This Ordinance, No. 22, effects an amendment of s. 94 of the principal Ordinance of 1861.

S. 94 of the principal Ordinance provided penalties against owners who allow animals to stray on to or into a thoroughfare; but, as it was almost impossible to bring guilty knowledge home to the owner or person in charge of the animal, the amending Ordinance provides that when any such animal is found loose on any thoroughfare or tethered in such a way that it can make its way on to or into any such thoroughfare, it shall be deemed to have been turned loose, or suffered to be turned loose, or to have been tied or tethered or suffered to have been tied or tethered as the case may be, by the owner thereof, unless he satisfies the Court to the contrary.

Trade Marks.—The object of this Ordinance No. 23, is to bring the local law with regard to the registration of trade marks in respect of certain classes of cotton piece goods or cotton yarn into line with the English law.

Forest.—This Ordinance, No. 24, adds a section to the principal Ordinance. The new section empowers the Government Agent or Assistant Government Agent to issue licences for the shooting of cattle which are in the habit of trespassing on any forest plantations.

Mines and Machinery.—The principal Ordinance passed in 1896 contains no provision for inquiries into accidents by expert officers. The amending Ordinance, No. 25, remedies this defect by the addition of a paragraph to s. 4 authorising the holding of inquiries and investigations on the same lines as those in England with respect to accidents in connection with the mines' machinery and boilers, under the Coal-mine Regulation Act, 1887, the Factory and Workshop Act, 1901, and the Boiler Explosion Act, 1882.

The amending Ordinance also increases the fines payable for the breach of any rule from Rs. 50 to Rs. 500 for a first offence, and from Rs. 100 to Rs. 1,000 in the case of subsequent convictions, and extends the time within which prosecutions are barred from six months to one year.

2. MAURITIUS.

[*Contributed by* E. KOENIG, ESQ., *Procureur-Général.*]

Ordinances passed—24.

Maintenance of Live-stock.—The Slaughtering of Cattle Restriction Ordinance (No. 1), has been introduced with a view to the maintenance of the live-stock of the Colony. It empowers the Director of Agriculture to make regulations prohibiting or restricting the slaughtering of cows and heifers under five years or in calf, and of all bovines under two years.

Copyright.—The Copyright Ordinance (No. 5) empowers the Collector of Customs to perform the duties and exercise the powers imposed on or given to the Commissioners of Customs and Excise of the United Kingdom by s. 14 of the (Imperial) Copyright Act, 1911.

Sugar.—The Sugar Purchase Ordinance (No. 8) has for its object to validate the special conditions under which the purchase by the Colonial Government of certain categories of vesou sugar of the 1918–19 crop was effected.

Fisheries.—The Fisheries Ordinance (No. 9) which amends and consolidates the law on fisheries, reproduces the provisions of the Fisheries Ordinance, No. 21 of 1902, with certain additions, modifications and omissions suggested by the Fisheries Committee with a view to the better protection of our fish supply.

The most important changes are the following.

(*a*) Under the old law, fishing with nets was prohibited in certain bays and creeks as well as in certain parts of the sea proclaimed by the Governor. Fishing with nets is now prohibited in " the reserves," as defined by the Ordinance ;

(*b*) The length and width of the principal nets used have been reduced and the dimensions of the meshes increased ;

(*c*) The use and possession of the small-net and of " the carlet " are now prohibited during certain specified periods ;

(*d*) The punishment of offences for the catching or the possession of undersized fish is enhanced in case of recidivation ;

(*e*) The catching of fish for bait is now restricted to specified hours instead of being allowed at all times ; and

(*f*) The size of the fish that may be caught has been increased, and the list of such fish added to.

Vanilla.—The Vanilla Consolidation Ordinance (No. 10) reproduces the Vanilla Consolidation Ordinance, 1915, with certain modifications suggested by a well-known dealer in Vanilla and approved of by the Board of Agriculture. These modifications consist mainly in the suppression of all the schedules save one, the particulars of those schedules being enumerated in the context.

Irrigation.—The Irrigation Works (Amendment) Ordinance (No. 12), has for its object to give a right of preference to claims for the supply of water under the Irrigation Works (Management) Ordinance, 1917.

Licences.—The Licences (Amendment) Ordinance (No. 13) :

Provides for the payment of licence by dealers in bills and loans, instead of a tax as formerly ; prohibits the sale by certain licence-holders of food cooked in the Colony, with some exceptions, with a view to the protection of hotel and tavern keepers and victuallers ; provides for the payment of a fine by a party who has been condemned to pay dog-tax and who fails to pay such tax, and to produce the undeclared dog in Court for destruction. Non-payment of the tax is no longer punishable by imprisonment.

Under the old text a person guilty of shooting, killing or destroying game or attempting so to do, of going in pursuit of game, or of dealing in game, without having previously taken out a licence, had to pay a fine of not less than Rs. 20, and not more than Rs. 100, and in case of a subsequent offence committed within a year of a previous conviction not more than Rs. 200. The penalty for the above offences now consists in the payment of the licence duty, together with a fine of not less than the amount of the licence duty and of not more than double that amount.

The Ordinance prohibits the sale by a trader, authorised to retail or compound spirits, of denaturated spirits and of mixtures containing

spirits and used as motor fuel, and no person is authorised to sell motor fuel without a special authority.

It enacts that brokers dealing in bills and loans have to pay licence duty varying with the amount of their investments instead of a fixed duty.

Quarantine.—The Quarantine Consolidation (Amendment) Ordinance (No. 16) was passed to prevent the introduction of Spanish influenza into the Colony. It enacts that any vessel coming from any port or place proclaimed to be infected with Spanish influenza, or any vessel coming from any port or place on board of which a case of this disease shall have occurred either before leaving the port or place of departure or at any time during the voyage, shall be considered an infected vessel within the meaning of the Quarantine (Consolidation) Ordinance, 1913, and shall be dealt with accordingly. Power is given to detain the passengers and crew of an infected vessel beyond the usual period of observation and during a period of surveillance of five days. The vessel is also liable to be detained for not more than seventy-two hours, after completion of the period of observation, or after her arrival, in case the period of observation has been completed before her arrival, for purposes of disinfection and fumigation.

Rodrigues Court.—The Court of Rodrigues Jurisdiction (Amendment) No. 2 Ordinance (No. 19). Under the old text all legal process to be served at Rodrigues was served by an officer or constable of Police duly sworn to act as Usher, and who was entitled to fees for such service. Both the chief Officer and the Corporal of Police are henceforth qualified to act as Usher, and all fees payable to such officers now accrue to the Treasury, these officers receiving for such service a nonpensionable allowance from Government.

Noxious Animals.—The object of the Animals Destruction Ordinance (No. 20) is to afford better protection of food-crops against the depredations of certain animals. It reproduces and extends the provisions of the Swine Destruction Ordinance (No. 24 of 1902).

Quarantine.—The Quarantine Consolidation (Amendment No. 2) Ordinance (No. 24) allows of a vessel coming from a port or place which, although not proclaimed infected, is, as a matter of fact, infected with Spanish influenza, being treated as an infected vessel. Power is also given to detain a vessel for a few days before she proceeds to land her passengers and sick persons at a quarantine station, in case the said station is already occupied by persons whose period of detention is shortly to expire. In view of the extremely infectious nature of the disease and of the difficulty of properly isolating the persons affected, the period of detention for all persons under observation at a quarantine station is calculated from the date of the death or perfect recovery of the person last affected.

3. STRAITS SETTLEMENTS.

[*Contributed by* A. DE MELLO, ESQ.]

1917.

Thirty-two Ordinances were passed, but, as has been the case since 1914, the majority of them of an emergency nature, arising from circumstances connected with the war, and some of a purely local or

amending nature. The most important Ordinances are those dealing with :

Criminal Law.—Ordinance No. 10, suggested by the Statute Law Revision Commissioners, makes the following chief amendments to the Penal Code (Ordinance No. 4 of 1871) and the Criminal Procedure Code (No. 10 of 1910).

(*a*) Abetment in the Colony of offences outside the Colony is, following the law in India, made an offence (s. 5).

(*b*) The punishment for compassing the King's death or imprisonment of the King, or the abetment of these offences, is made (ss. 6 and 7) death, which was the punishment by ss. 1 and 6 of the Treasonable Offences Ordinance, 1868 (now repealed), whereas, under ss. 121A and 121B (also now repealed) of the Penal Code, the punishment was penal servitude for life.

(*c*) The punishment for intentionally omitting to give information respecting any offences referred to in (*b*) is imprisonment for seven years (s. 8).

(*d*) S. 124A and 505 of the Penal Code of India are substituted for ss. 124A and 505 of the above-mentioned Penal Code of the Colony (ss. 9 and 10).

(*e*) Every person aware of the commission of the offence of abetting any offence against the King's person or authority, and of the offence of attempting to commit murder, or culpable homicide not amounting to murder, is required to give information (s. 12).

(*f*) Property attached as the property of a person proclaimed under s. 51 of the Criminal Procedure may be claimed by the real owner (s. 14).

(*g*) Any statement made to a police officer in the course of a police investigation must be reduced to writing, and any such statement made by a witness may be used with the consent of the Court to impeach the credit of such witness (ss. 16 and 17).

(*h*) The jury may return a verdict of "not guilty" at any time after the conclusion of the evidence for the prosecution, if they consider the case to be one in which they could not safely convict (s. 22).

(*i*) If a sentence of whipping cannot be executed owing to the state of health of the offender, the Court can, as in India, raise the sentence, and, in lieu of whipping, order imprisonment (s. 25).

(*j*) Power is given to the Supreme Court (which was taken away from it in 1910, when the present Criminal Procedure Code was passed) to call for the records of any proceeding in an inferior Criminal Court, and to reverse the sentence, finding, or order (s. 27). This power is possessed by the High Court, Sessions Judge, and District Magistrate in India, and was possessed by the Supreme Court of this Colony until 1910, as stated above.

(*k*) District Courts are empowered to order payment out of the Treasury of the expenses of witnesses for the prosecution and defence (s. 29).

(*l*) Ss. 478 to 489 of the Penal Code, which deal with offences relating to trade and property marks, have been incorporated in an amended form in the Merchandise Marks Ordinance (see below) and have consequently been repealed, together with that part of Schedule I of the Criminal Procedure Code which relates to those sections.

Fire Insurance Companies.—Ordinance No. 25 is drawn on the lines of the Life Assurance Ordinance, No. 33 of 1914 (see *Review of Legis-*

lation, 1914, p. 60). In the past, fire insurance companies incorporated in Hongkong or in China, had failed. Of late, many such companies and one Chinese firm had started business in this Colony; two of these companies were private companies, and were not even required to file balance-sheets under s. 287 of the Companies Ordinance, No. 25 of 1915 (see *Review of Legislation*, 1915, p. 146). The balance-sheets of those that were required to file them were certified by unqualified auditors, and in many cases were unsatisfactory in other ways. The advertisements of these companies were misleading as regards their capital.

It being unnecessary to apply all the provisions of the Life Assurance Ordinance, 1914, to fire insurance companies, the present Ordinance contains no clauses corresponding to ss. 5, 6, 8, 9, 10 (2 and 3), 13, 14, 17 to 22, 24 and 31 of that Ordinance.

S. 3 (2) was considered necessary in order that the accounts of Chinese companies may be audited in the same manner as accounts of companies incorporated in the Colony are audited (see s. 5 (2)).

S. 4 fixes the deposit to be made by a company at $100,000, not at $200,000, the sum fixed for life assurance companies.

S. 9 is restricted to unincorporated companies; other companies have to perform the same duties under s. 287 of the Companies Ordinance, 1915.

S. 13 reproduces in shorter form the essence of ss. 27 and 28 of the Life Assurance Ordinance, 1914.

Malacca Lands.—It had been held by the Supreme Court that the only person who can be registered in the Mukim Register as the holder of customary land by right of succession is the legal representative of the deceased holder of such land, if the deceased was not a Mohammedan.

Ordinance No. 27 empowers the Collector of Land Revenue, on the death of a customary land-holder who is not a Mohammedan, and to whose estate representation has not been set up, to enter in the Mukim Register the names of all or, with the consent of all, of some of, the persons entitled, or to direct that application be made to the Court for grant of Probate or Letters of Administration. The Ordinance only legalises a practice which has long been standing, and which has worked satisfactorily.

Merchandise Marks.—Ordinance No. 9, prepared by the Statute Law Commissioners appointed under Ordinance No. 23 of 1910, consolidates the Ordinances relating to fraudulent marks on merchandise and incorporates in an amended form ss. 478 to 489 of the Penal Code (Ordinance No. 4 of 1871), which deal with offences relating to trade and property marks. The incorporated sections of the Penal Code are amended in the manner in which the corresponding sections of the Indian Penal Code are amended by the Indian Merchandise Marks Act, 1889.

Rubber Lands.—No. 13, introduced at the instance of the Secretary of State, (1) extends to British subjects and others to whom the principal Ordinance does not apply the restrictions imposed by that Ordinance with regard to the acquisition of lands cultivated with rubber or suitable therefor, and (2) revokes the power to grant authority to acquire such lands conferred by s. 5 of prior Ordinance.

This extension and revocation are desirable in view of the existing engagements of the mother country.

Second-hand Dealers.—It had been comparatively easy hitherto for

a thief to dispose of stolen property to second-hand dealers, as the risk to the dealer of detection and punishment was very small. Ordinance No. 21 places dealers in second-hand goods in approximately the same position as pawnbrokers, and is intended to make the disposal of stolen property more difficult, and in this way reduce the number of offences against property.

1918.

Of the twenty-nine Ordinances passed during the course of the year, almost all may again be said to consist of either emergency legislation or local and amending Ordinances. The most noteworthy enactments are those dealing with :

Agriculture.—The Cocoa-nut Palms Preservation Ordinance (No. 3) penalises the wilful destruction of cocoa-nut palms, which play such an important part in the agricultural life of the East ; and the Agricultural Pests Ordinance (No. 25, which repeals the Cocoanut-trees Preservation Ordinance, No. 4 of 1890, and the Destructive Pests Ordinance No. 13 of 1908), provides for the establishment of Inspecting Officers and a Supervising Committee to deal with the treatment of plants or pests (such as the " red beetle " and " rhinoceros beetle ").

4. FEDERATED MALAY STATES.

[*Contributed by* A. DE MELLO, ESQ.]

1917.

Companies.—No. 20 substitutes for the Companies Enactment passed by the individual States in 1897, a Federal measure embodying modern developments of the English law relating to companies. The Enactment is an adaptation of the Companies Ordinance (No. 25 of 1915, as amended by Ordinances Nos. 8 and 22 of 1916) of the Straits Settlements, which is itself derived from the Companies (Consolidation) Act of 1908 of England.

Merchandise Marks.—No. 7 is based on Ordinance No. 9 of 1917 of the Straits Settlements (*vide supra*, p. 141).

Prevention of Malaria.—No. 13 is intended to provide new means of combating the spread of malaria, and is based on the suggestions put forward in 1914 by the advisory body known as the "Anti-malaria Board." Enactment No. 13 provides for the appointment of Boards of Health, for their powers and duties within the areas subjected to their control, and for the imposition of a rate to meet necessary expenditure.

Rice Lands.—Extensive areas of land, alienated in the past by entry in the Mukim Registers with the intention that the cultivation of rice should be a condition of tenure, were found to have been alienated in terms not adapted to effectuate this intention, no record of any condition as to cultivation of rice appearing in the column of the Mukim Registers provided for " Special Conditions," though the column headed " Nature of Cultivation " contains a reference to rice cultivation in one or other of the various forms given in the schedule to the Enactment. There was thus the risk that thousands of acres of land, some of it improved by elaborate irrigation-works constructed by the Government for the benefit of rice cultivation, some of it alienated at specially low

rents with a view to the encouragement of that cultivation, might be diverted from the purpose intended. Hence, Enactment No. 2 brings about a condition of affairs similar to that contemplated at the time of alienation by imposing a condition in all lands that the entries thereof in the Mukim Registers contain a description of the nature of cultivation in any of the terms specified in the schedule to the Enactment.

Power to exempt from the operation of the measure, and provision for assessment of compensation in cases of hardship, are included in the Enactment.

Sanitary Boards—Enactment No. 12 enlarges the sphere of operations of Sanitary Boards by bringing within their scope investigation into deaths, anti-malaria measures, control of advertising devices, and the regulation of street-traffic. It also authorises the instalment of drainage systems for removal of superfluous water, and the imposition of a rate to cover the cost thereof, and it permits the Sanitary Boards Enactment and By-laws to be applied piece-meal to areas outside Sanitary Board limits, in much the same way as the Municipal Ordinance (No. 8 of 1913) and by-laws thereunder are extended to non-municipal areas in the Colony of the Straits Settlements.

Silt Control.—No. 26 provides statutory means for protecting owners of land from damage caused by the inroad of silt and other matter from the land of their neighbours. Damage has not in a few cases been caused to padi (rice) fields by silt from adjoining rubber-plantations.

Town Improvement.—The question of town-planning legislation in the Malay States had been for some time under consideration. Schemes for improvement of town areas, otherwise than by wholesale resumptions and re-arrangement at prohibitive cost to the public purse, were always liable to be blocked so long as no means, other than argument and persuasion, existed for overcoming dissent of parties concerned, however small be the dissentient minority, and however necessary be the proposed improvements for the public convenience and health.

Enactment No. 23 (modelled largely on Part III of the Ceylon Ordinance No. 19 of 1915) provides for the framing by Sanitary Boards of improvement schemes of various kinds, and for the presentation of objections and criticisms by persons concerned, and makes the sanction of the High Commissioner for the Federated Malay States a condition precedent to the execution of a scheme. It also provides power to deal (otherwise than by means of a sanctioned improvement scheme) with evils arising from congestion of buildings and from insanitary dwelling-houses.

1918.

Civil Procedure Code.—No. 15 repeals and re-enacts as a Federal measure the Civil Procedure Codes passed in the several States in 1902 and the subsequent amending Enactments, with the variations incidental to such change of scope, with certain alterations of arrangement and phrasing, and with some additions.

The Codes of 1902 were adapted from the Indian Act XVI of 1882 (since superseded by Indian Act No. V of 1908) and the Orders thereunder; the alterations of arrangement and phrasing in the new Enactment are largely adapted from the 1908 Act and Orders. Among the most noticeable of the additions are the following:

Ss. 63–66 relating to service of summonses outside the Federated Malay States; ss. 341, 344 (iii) and 350, for the aid of an insolvent's creditors outside the States; ss. 391 and 392, aid to foreign tribunals; ss. 414 to 425, enabling firms to sue and be sued in the firm's name; ss. 471 to 480, providing a summary procedure in claim for debt and liquidated demands; ss. 509 to 533, relating to termination of tenancies and distress for rent; s. 559, enabling a new trial to be ordered in any appeal from a decree of a Magistrate's Court.

The Enactment also provides for a discretion as to framing and recording issues (cc. 2, 14), makes new provisions as to the persons before whom affidavits for local use may be sworn (s. 196), provides for certifying the grounds of a magistrate's judgment (ss. 201 and 537), extends to certain Protectorates the provisions relating to execution of commissions and service of summons (ss. 37 and 598), provides for enforcement of the duties of a receiver (s. 507), and adds 13 new forms to the Third Schedule.

Fire Insurance.—No. 3 is an adaptation of the Straits Settlements Ordinance.

Fugitive Offenders.—By His Majesty's Order in Council dated January 2, 1918, operating on February 1, 1918, the group of countries in which the Federated Malay States were previously included for the purposes of Part II of the Fugitive Offenders Act, 1881, is extended to include British India, Ceylon and Hongkong. The terms of Enactment No. 15 of 1915 (see *Review of Legislation*, 1915, p. 155) were not designed for, or adapted to, this new grouping, but contemplated the case of fugitives from British possessions (other than the Straits Settlements) being dealt with under Part I. of the Act. Enactment No. 4 aims at obviating, with the minimum of alteration in the principal Enactment, difficulties that may possibly arise in dealing here with applications from British India, Ceylon or Hongkong for return of offenders under Part II. of the Acts, and the end has been attained by amending the definition "Agreeing State" in s. 2.

Libel.—No. 8 is based on Ordinance No. 7 of 1915, of the Straits Settlements (see *Review of Legislation*, 1915, p. 147) as amended by Ordinance No. 24 of 1917, deals with a subject on which there has previously been no statutory provision in the Federated Malay States, and as to which need of legislation was felt. Most of its provisions are taken from Acts of the United Kingdom. Included in the scope of the Enactment are reports of judicial proceedings, of the proceedings of the Federal Council, and of public meetings, and of meetings of local authorities, extracts from public records, certain matters of procedure in libel actions, and an assurance of immunity to members of Council in respect of defamation.

Mines.—With the object of increasing the output of tin, Enactment No. 10 relaxes the existing restrictions on the mining of land held under agricultural titles. The Enactment, at the same time, provides for issuing to landowners prospecting licences implying no right to a mining title, and seeks to ensure that surface-rights and mining rights over the same land shall not become vested in different persons.

VII. WEST AFRICA.

1. GAMBIA.

[*Contributed by* M. J. F. McDonnell, Esq., *Legal Adviser.*]

Ordinances passed—10.

Capital Sentence.—Ordinance No. 1 serves to regulate the procedure on the passing and execution of capital sentences.

Land Transfer.—No. 4 repeals an elaborate Ordinance of 1904, based on the English Act, which has never been brought into force.

Motor Traffic.—No. 6 contains the usual provisions relating to licensing, speed limits, lights and rules of the road. In spite of the fact that there are in the Colony only eight and a half miles of metalled road (the river being the great highway) the number of motor vehicles has increased from three in 1913 to thirty-five in 1918. Hence the need for legislation.

Currency Notes.—No. 7 legalises notes issued by the West African Currency Board, and provides penalties for wrongful issues and forgeries.

Wharves.—The unabated prosperity of this Colony and the increasing number of factories for the shipment of produce along the banks of the river have made it necessary that some control should be exercised over the erection of wharves in the Colony and Protectorate. Provision is made by No. 10 for the issue of licences for such structures which will be instruments executed under the provisions of s. 2 (*f*) of the Public Lands (Grants and Dispositions) Ordinance, 1902, and will be based upon the form of licence issued by the Board of Trade for the erection of piers upon the beach and foreshore of the sea upon the coasts of England.

2. GOLD COAST.

[*Contributed by* R. W. H. Wilkinson, Esq.]

During the year 1918 forty Ordinances were passed by the Legislative Council, of which the following are those of more general interest:

Enemy Property.—The Enemy Property Control and Disposal (Extension of Powers) Ordinance, No. 1, was passed in order to provide for the liquidation of firms and concerns of enemy association not being technically corporations of enemy character. Under this Ordinance the liquidation of the Basel Mission Factory and the Basel Mission Society was undertaken.

Money-lending.—The Recovery of Money Loans Ordinance, No. 2, extends the powers of the Courts to re-open money-lending transactions brought before them, with a view to affording effective equitable relief to debtors victimised by harsh and unconscionable bargains. S. 3 of the Ordinance follows the purpose of the Money-lenders Act, 1900, of the Imperial Parliament (63 and 64 Vict. c. 51).

Alien Missionaries.—The Alien Missionaries and Teachers Restriction Ordinance, No. 10, prescribes the limitations under which alien missionaries and teachers are allowed to enter the Colony and to work in it. The general principle of the Ordinance is that no alien missionary or teacher shall enter the Colony except with the Governor's consent.

Penalties are provided for any infraction of the provisions of the Ordinance, and power is also taken to deport offenders.

Oaths.—The Oaths Ordinance, No. 11, repeals the former law relating to Promissory Oaths and makes fresh provision in that respect.

S. 17 of the Ordinance prescribes the form and manner in which oaths may be taken, and, *inter alia*, follows the Oaths Act, 1909, of the Imperial Parliament (9 Edw. VII. c. 39) in rendering the unhygienic practice of " kissing the book " no longer obligatory.

Sub-section (4) of the same section declares the officers who by law are authorised to administer oaths and to perform certain notarial functions.

Stamps.—The Stamp Ordinance, 1889, Amendment Ordinance, No. 16, effects a general increase in the stamp fees in accordance with the scale set forth in the new schedule, this increase being effected for the purpose of raising additional revenue.

Concessions.—S. 2 of the Concessions Ordinance, 1900, Amendment Ordinance, No. 22, directs that notice of a concession shall be served on the owners and occupiers of lands contiguous to the area comprised in the concession ; the object being to enable their representations to be preferred without delay if it shall appear that any land of such owners or occupiers has been improperly included in the area granted by such concession.

S. 3 directs the Concessions Court to give attention to the questions whether a concession area includes any fetish land, and what the effect on the interest of the grantor or concessionaire of the existence thereon of such fetish land may be.

Supreme Court.—S. 3 of the Supreme Court Ordinance, 1876, Amendment Ordinance (No. 25) provides that, from the first day of January, 1919, no person other than a law officer, shall practise as a solicitor unless he shall first have taken out an annual licence to practise. This provision is enforced by a penalty of fifty pounds, and also by imposing on practitioners contravening it certain disabilities, which measure has been adapted from that laid down in s. 39 of the Stamp Act, 1870, of the Imperial Parliament (33 and 34 Vict. c. 97).

Patents.—The Patents Ordinance, 1916, Amendment Ordinance (No. 26) provides for petitions relating to patents to be lodged at the office of the Registrar of Patents at Accra, instead of being sent to the Colonial Secretary as at present. This modification of practice will prove of general convenience both to the public and to the departments concerned.

Diseases of Animals.—The Diseases of Animals Ordinance (No. 27) makes provision for the preventions of the spread of epizootic disease. The desirability of its enactment had been emphasised by the local prevalence of cattle plague which had already led to widespread fatality among cattle in the Colony.

Certain epizootic diseases are named in s. 2 of the Ordinance, and by s. 3 the Governor in Council is authorised to add to them, if necessary, as occasion may require.

S. 5 of the Ordinance requires a Veterinary Authority to be notified of any cases, or suspected cases, of epizootic disease, and s. 6 provides for the isolation of infected animals.

Ss. 8 and 9 of the Ordinance provide for the inspection by a Veterinary Authority of animals suspected to be infected, and also for the performance of autopsies where that course is thought desirable ; while s. 10 defines the powers of a Veterinary Authority with respect to disinfection, destruction, and so on.

Under s. 4 of the Ordinance the Governor in Council has power to proclaim "infected areas," and s. 11 lays down the provisions which will thereupon apply to such areas. These include registration of owners and animals, and also restriction on the movements of animals with respect to their entering and leaving such areas.

S. 14 provides for payment of compensation in approved cases to persons who may have sustained loss by reason of measures taken under the provisions of the Ordinance.

Legal Documents.—The purport of the Legal Documents (Restriction on Preparation) Ordinance, No. 28, is to prevent unqualified persons from preparing for gain legal instruments relating to land.

Currency.—The West African Currency Notes Ordinance, No. 34 of 1918, provides for the making of legal tender in the Gold Coast Colony the currency notes issued by the West African Currency Board; and the Currency Offences Ordinance, No. 39, makes provision with the object of preventing acts tending to depreciate such currency notes, as also the Imperial Treasury Notes, which are likewise legal tender in the Gold Coast Colony.

Boy Scouts.—S. 3 of the Boy Scouts Association Ordinance, 1918 (No. 35), prohibits the unauthorised public use of the uniform and other equipment of the Association.

S. 4 prohibits Boy Scouts, unless otherwise so lawfully entitled, from passing themselves off as police officers or as officers of the Government or of any native authority or tribunal.

S. 5 prohibits the unauthorised organisation of any body passing themselves off as Boy Scouts or as otherwise connected with the Boy Scouts Association.

Basel Mission.—The Basel Mission Ordinance, No. 40, provides for the transfer of the properties of the Basel Mission Society and of the Basel Mission Factory to other bodies of British character and association. A proportion of the profits of the commercial business is impressed with a trust for charitable purposes and enterprises in the Gold Coast Colony and Ashanti.

(i) ASHANTI.

During the year 1918 fifteen Ordinances were enacted with respect to Ashanti. Several of these were enacted for the purpose of applying to Ashanti various Ordinances of the Gold Coast Colony.

Apart from these, Ordinance No. 3 of 1918, namely the Oaths (Ashanti) Ordinance, 1918, makes with respect to Ashanti a provision similar to that made by the Oaths Ordinance of the Gold Coast Colony (No. 11).

The Ashanti Administration Ordinance, 1902 (Sixth Further Amendment) Ordinance, No. 8, provides for the appointment of a professional lawyer to be Circuit Judge with jurisdiction throughout Ashanti, a measure which marks a step forward in the development of the Administration of Ashanti.

(ii) NORTHERN TERRITORIES OF THE GOLD COAST.

During the year 1918 nine Ordinances were enacted with respect to the Protectorate; but of these the only one seeming to deserve present mention is the Oaths (Northern Territories) Ordinance, 1918 (No. 4 of 1918), the general purport of which is similar to that of the Ordinances of the Gold Coast Colony and of Ashanti.

3. NIGERIA.

[*Contributed by* E. GARDINER SMITH, ESQ., *Crown Prosecutor.*]

Ordinances passed—29.

The end of the revision of the laws was marked by the departure of the Governor-General (Sir Frederick Lugard) and the promotion of the draftsman of the revised laws (Mr. R. M. Combe, A.G.) to the post of Chief Justice. The legislation of the year was light compared with the two preceding years.

Lands and Surveys.—No. 7 (Crown Lands) is the fruit of the experience of the Lands Department, and makes fuller provision for the control of Crown lands than the Ordinances which it repeals (S. Nigeria Laws, c. 107 and c. 108, and No. 13 of 1908 of S. Nigeria). It contains a new definition of " Crown Lands " (s. 2).

Leases may be granted to natives of Nigeria for an indefinite term (s. 1) ; this is a concession to native sentiment.

The clauses which usually occur in leases of Crown lands are set forth, and are to be implied in all future leases (s. 6, *et seq.*). This should shorten forms. A minor who becomes a lessee is in the same position as if he were of full age (s. 7). Water, foreshore and mineral rights are reserved to the Crown (ss. 19–21).

The Governor may resume, for roads, railways, etc., 4 per cent. of any land which exceeds 200 acres, without paying compensation for the land (s. 23). The right of the Crown to sue for recovery or possession, or for rent, is not to be barred by limitation (s. 31), and no right of way is to be presumed against the Crown by reason only of user (s. 32). Regulations (No. 34 of 1918) have been issued under the Ordinance, prescribing the special convenants and conditions to be implied in agricultural leases, building leases, railway site leases and native occupation leases.

S. 15 of No. 12 of 1915 (Land Registration) provides that an instrument affecting land shall not be registered unless it contains a plan. This provision was of no value if, as was the case, the plan might be made by an unqualified person. No. 12 (Land Registration (Amendment)) requires all such plans to be signed by a qualified surveyor ; and , in the case of a plan attached to certain instruments affecting Crown land or land controlled by the Government, to be countersigned by the Surveyor-General.

No. 18 (Land and Native Rights (Amendment)) amends No. 1 of 1916 (Land and Native Rights), and makes absolute the provision that no single right of occupancy granted to a non-native shall exceed 1,200 acres, if granted for agricultural purposes, or 12,500 acres if granted for grazing purposes. Grants in excess of these areas could formerly be made with consent of the Secretary of State. S. 16, dealing with certificates of occupancy, is repealed, and a stronger section substituted. The intention is to compel holders to take out certificates, so that titles may be recorded.

No. 13 (Survey) embodies the experience of the Survey Department, and repeals the existing law (c. 114 of S. Nigeria Laws). A licensed surveyor had to enter into a bond. Now, if any surety under a bond has to pay up, or dies, or becomes bankrupt, or quits Nigeria without leaving property, the Governor may call for a new bond, and meanwhile may suspend the surveyor's licence (s. 5). Formerly, if a plan was

correct so far as it went, the surveyor could not be dealt with for misconduct, even if he intentionally had not complied with the law. This is altered by s. 6. In return for the valuable monopoly given by No. 12 of 1918 (*vide supra*), the duty of submitting plans to the Surveyor-General is placed upon surveyors, and not on their clients. Surveyors are also required to send in to the Surveyor-General copies of any plans signed by them which show the boundaries of any land (s. 10). This will enable the Surveyor-General to supervise their work, and also supply information useful to the public. The Governor had power to direct the demarcation of the boundaries of lands, and objections were dealt with by the Commissioner of Lands.

Objections are now to be dealt with by a Board, specially appointed in the case of each demarcation, with an appeal, as before, to the Supreme Court. S. 41 imposes on owners and occupiers the duty of preserving survey-marks on the land, and of reporting any injury to the nearest magistrate. No surveyor shall survey property in which he is interested (s. 49); a similar provision is found in British Honduras Laws, 1887, c. 51, s. 21, and British Guiana Laws, 1895, No. 20 of 1891, s. 30.

Courts.—In 1914 Sir Frederick Lugard introduced into the South the native court system which he had set up in the North, and practically elevated the southern chiefs from native assessors to native judges. It is too soon to estimate the success of the experiment. Experience, however, has already suggested minor changes in the principal Ordinance (No. 8 of 1914), and it has been found simpler to recast it, and issue it as No. 5 of this year (Native Courts).

The system of Provincial Courts, *i.e.* non-professional Courts, was also introduced into the South from the North in 1914, and was at first jealously guarded by the Executive from any possible interference by the Supreme Court. It has since been found necessary to fall back upon the Chief Justice to revise the sentences, and now, by two small amending Ordinances, he is given the sole power of transfer from a Provincial Court to the Supreme Court, Nos. 21 (Provincial Courts (Amendment)), and 28 (Supreme Court (Amendment)).

Missions.—No. 6 (Missions Schools (Northern Provinces)) prohibits the establishment of mission schools in the North, which is largely Mohammedan, without the permission of the Governor.

Assessment.—A water-supply to Lagos brought a water-rate in 1915 (Nos. 10, 11 and 18 of 1915). The existing law did not give the assessor sufficient scope to assess new buildings or to reassess buildings which had been altered or destroyed. No. 8 (Assessment) narrows the meshes of the assessor's net.

Naturalisation.—S. 10 of No. 54 of 1916 (Naturalisation of Aliens) enabled the Governor in Council to revoke a certificate of naturalisation if it had been obtained by misrepresentation. This was found to be not wide enough. No. 9 (Naturalisation of Aliens (Revocation of Certificates)) provides, as grounds of revocation, disloyalty, or imprisonment, or bad character, or absence. An inquiry is to be held by a judge. Revocation does not affect the British nationality of the wife and minor children, unless the Order in Council so provides, or the wife makes a declaration of alienage. The Ordinance was used once during the war.

Copyright.—No. 10 (Copyright Act, 1911) is founded on the model Ordinance prepared in the Colonial Office, and makes the necessary

provision for giving effect to s. 14 (importation of copies) of the Imperial Copyright Act, 1911, in Nigeria.

Mining.—No. 14 (Minerals (Amendment)) amends No. 10 of 1916, and introduces various new provisions mostly in favour of mining companies. S. 2 (ix) introduces the principle of the Workmen's Compensation Act, 1906, and makes the lessee or holder of the right or licence liable in compensation if a native is killed or injured. Serious and wilful misconduct of the employee is a defence, even in cases of death or serious and permanent disablement. Employers are also made liable for offences committed by their servants, unless they can prove that the offence was committed without their knowledge or consent, and that they had taken all reasonable means to prevent the commission of the offence (s. 4).

Intoxicating Liquor.—No. 17 (Native Liquor (Manufacture)) is supplementary to No. 17 of 1917 (Native Liquor), which introduced a system of licensing for the sale of native liquor. "Native liquor" was there defined as "fermented liquor usually made by natives in or about Nigeria." The new Ordinance empowers the Governor to prohibit or regulate the manufacture or possession of native liquor in the Protectorate.

Slavery.—No. 20 (Slavery (Amendment)) amends No. 35 of 1916 (Slavery) by inserting the following section: "3*a*. Any Native Tribunal in the Northern Provinces administering Moslem Law may grant certificates of freedom to persons who have acquired their freedom in accordance with such law."

Shipping.—Considerable difficulties had arisen in adjusting with the shipping companies the dues to be paid on outward export cargo, owing to the fact that freight on certain articles was being charged by one steamer according to the scale ton laid down by the company in the tariff of rates of freight, and, by another steamer, according to the ton deadweight. No. 23 (Lagos Harbour Dues (Amendment)) amending No. 65 of 1917 (Lagos Harbour Dues), simplifies matters by charging fixed rates per ton weight, except in the case of palm-oil kernels, and ground-nuts, where the standard is measurement.

No. 25 (Wrecks and Salvage) repeals c. 59 of S. Nigeria Laws, and No. 14 of 1913 of S. Nigeria. "Waters of Nigeria" is defined as including the territorial waters of Nigeria, the navigable inland waters, the seashore, and the banks of navigable inland waters (s. 2). The Director of Marine is made Receiver of Wrecks (s. 21). The Director of Marine or a Harbour Master may take possession of and remove a wreck which is an obstruction to navigation (s. 38). Salvage is to be paid by or to the Government of Nigeria (s. 53). Claims for salvage by H.M.'s ships require the consent of the Admiralty (s. 54). The provisions relating to Marine Store Dealers and the marking of anchors by manufacturers are omitted. Neither trade is found in Nigeria.

Emergency Legislation.—There were several enactments coming under this head, which it is unnecessary to specify, as these were similar to those passed in other Colonies.

VIII. EAST AFRICA.

1. ZANZIBAR.

[*Contributed by* J. E. R. Stephens, Esq., *Magistrate of His Britannic Majesty's Court, Zanzibar.*]

A large amount of the legislation which was passed during the years 1914–19 was of a transient nature caused by the European War, and was similar to that passed in other parts of the Empire.

In January 1914 the Protectorate was transferred from the control of the Foreign Office to that of the Colonial Office, and a new Order in Council was issued which repealed the following Orders in Council, viz.: "The Zanzibar Order in Council, 1906"; "The Zanzibar Order in Council 1906, No. 2"; "Zanzibar (Amendment) Order in Council, 1908"; and "The Zanzibar Order in Council, 1909." The Order in Council of 1914 made very few changes. It, however, transferred appeals from Bombay to the Court of Appeal for Eastern Africa, and changed the designation of certain officers.

Police.—The Police Decree was amended in 1914 so as to make better provision for the prevention of theft and receiving of stolen property. It provides that any person being in possession of any movable property which there is reason to believe is stolen shall, if he fails to account for such possession to the satisfaction of a magistrate, be liable to three months' imprisonment or to a fine of Rs. 100 (£6 13*s.* 4*d.*), or both.

Liquor.—By the Native Liquor Regulation Decree it was declared an offence punishable with one year's imprisonment, or with a fine of Rs. 1,000, or both, to be in possession of, consume or sell, any intoxicating native liquor. "Intoxicating native liquor" is defined as meaning and including the liquor known as Tombo Tamu, Tombo Kali, Pombe, Fermented Asali and each and every other kind of native liquor containing three or more per cent. of alcohol.

Council.—By the Zanzibar Protectorate Council Decree of 1914 a Council was appointed which should consist of the following persons, namely: the Sultan as President, the British Resident as Vice-President, the Chief Secretary, the Attorney-General, the Treasurer, all of whom are styled official members, and three other persons styled unofficial members nominated and appointed by the British Resident with the approval of the High Commissioner for the Protectorate. The Council has no legislative authority. Records of all trials wherein sentence of death is passed are to be forwarded to the British Resident for the consideration of the Council.

Notaries.—The Zanzibar Notaries Public Decree makes provision for the appointment of persons to be Notaries Public, to practise in the Protectorate. It empowers any person who is (*a*) a member of the Bar of England, Scotland or Ireland, (*b*) a solicitor of the Supreme Court in England or Ireland, a Writer to the Signet or Solicitor in the Supreme Courts in Scotland, (*c*) a Notary Public entitled to practise as such in England, Scotland or Ireland, to apply to the Registrar of His Britannic Majesty's Court for a certificate to practise as a Notary Public.

Public Health.—The Public Health (Amendment) Decree extended the terms "infectious disease," or "dangerous infectious disease," to

mean and include any of the following diseases, namely, cerebro-spinal meningitis, cholera, diphtheria, membranous croup, erysipelas, leprosy, plague, puerperal fever, relapsing fever, small-pox, typhoid fever, typhus fever, trypanosomiasis, sleeping sickness, yellow fever, tuberculosis pulmonosis.

Merchant Shipping.—By the Order in Council of May 14, 1914, where under "The Merchant Shipping Act, 1894" anything is authorised to be done by or before a British Consular Officer, such thing may be done in any place within the limits of the Zanzibar Order in Council, 1914, at which there is no Consular Officer by or before the Port Officer. In order to prevent the theft of cloves and copra, the Agricultural Produce Decree, 1915, was passed, which provides that any person delivering to another person, in order that the same may be removed to some place situated without the limits of his own property, any cloves or copra shall, at the time of such delivery, give a permit to such other person who shall retain it so long as he is in charge of such cloves or copra. The penalty for a breach of this Decree is imprisonment with or without hard labour for a term of two calendar months, or to a fine not exceeding Rs. 1,000 or both, and the cloves or copra may be forfeited or disposed of as the magistrate may direct.

Marriage.—The Marriage Decree gives power to the British Resident to license certain places for the celebration of marriages, and states the requisites for a valid marriage in the Protectorate.

Labour.—The Workman's Breach of Contract Decree provides that, where a workman neglects to perform work for which he has received an advance, complaint may be made to a magistrate, who may order repayment of the advance or performance of the contract. If the artificer, workman or labourer fails to comply with the order, the magistrate may sentence him to be imprisoned with hard labour for a term not exceeding three months, or until such sum of money shall be sooner repaid. No such order for the repayment of any money shall, while the same remains unsatisfied, deprive the complainant of any civil remedy by action or otherwise which he might have had but for this Decree.

Appeals.—We have already seen that an appeal lies from the decisions of His Britannic Majesty's Court for Zanzibar to the Appeal Court for Eastern Africa. It is further provided by "The East African Protectorates (Appeal to Privy Council) Amendment Order in Council (2), 1915," that an appeal lies from that Court to the Privy Council, but the security required to be given is raised from Rs. 5,000 to Rs. 7,500.

Currency.—The Currency Decree, 1916, consolidated and amended the laws relating to the currency. It provides that gold coins coined at the Royal Mint in England or at any Mint established as a branch of the aforesaid Mint, shall be a legal tender in payment or on account at the rate of Rs. 15 for one sovereign. The silver rupee of British India shall be the standard coin of the Protectorate. The half-rupee and the quarter-rupee silver coins of British India shall be legal tender for the payment of an amount not exceeding five rupees, but for no greater amount. Seyyidieh copper pice shall be legal tender at the rate of 64 pice to one rupee for the payment of an amount not exceeding one rupee.

By the Order in Council of March 21, 1916, Article 25 of the Zanzibar Order in Council, 1914, is amended by the addition of the following proviso: "Provided always that nothing in this Article contained shall

be taken to extend to Zanzibar the enactments mentioned in the Schedule to the Foreign Jurisdiction Act, 1913, or any of them."

By the Order in Council of March 30, 1916, the Colonial Probates Act, 1892, is made to apply to Zanzibar as though Zanzibar were a British Possession within the meaning of the said Act. Also by another Order in Council of the same date the Colonial Prisoners Removal Act, 1869, is made to apply to Zanzibar, as though Zanzibar were within the meaning of the said Act, a Colony not having a legislative body.

In 1917 the following Acts of the Indian Legislature were published, with certain amendments in the form of local Decrees, namely: the Evidence Decree; the Limitation Decree; the Hindu Wills Decree; the Lunacy Decree; the Majority Decree; the Oaths Decree; the Whipping Decree; the Matrimonial Decree; the Transfer of Property Decree; the Penal Decree; the Insolvency Decree; the Probate and Administration Decree; the Post Office Decree; the Fugitive Criminals Surrender (Amendment) Decree; the Interpretation and General Clauses Decree; the Patents, Designs and Trade Marks Decree; the Civil Procedure Decree; the Contract Decree; the Succession Decree; the Criminal Procedure Decree; the Indian Acts Reference Decree.

Labour.—Among other Decrees passed during the year 1917 was the Native Labour Decree. It established a Labour Control Board with the following powers, viz.:

Power (1) to call on any native registered or liable to be registered under the provisions of the Adult Male Persons Registration Decree 1917, and who is not at the time of being so called upon over the age of fifty or in regular employment or medically certified to be unfitted therefor, to do any work within the Protectorate as the Board may think necessary; (2) to determine the work to be done by any such native; (3) to fix the rate of wages; (4) to exempt any native from doing any work for any reason that may be deemed sufficient. A native who is guilty of an offence under this Decree is liable for the first offence to three months' imprisonment or a fine of Rs. 20 or both, and for a second offence to six months' imprisonment or a fine of Rs. 40 or both.

By the Order in Council of July 17, 1917, s. 1 of the Marriage of British Subjects (Facilities) Act, 1915, is made applicable to Zanzibar.

Probates.—The External Probates Decree, 1918, enacts that where a Court of Probate in any British Possession or Protectorate to which the Decree for the time being extends has granted probate or letters of administration in respect of the estate of a deceased person, the probate or letters so granted may, on being produced to, and a copy thereof deposited with a Court of Probate in Zanzibar, be sealed with the seal of the Court, and thereupon shall be of like force and effect, and have the same operation in Zanzibar, as if granted by the Court. By the Manufacture of Oil of Cloves Decree no person shall manufacture oil of cloves in the Zanzibar Protectorate without the licence of the British Resident.

By the Order in Council of October 23, 1917, no person may use for the purpose of his trade or business, or for any other purpose whatsoever, in the Protectorate, without the authority of the Governor, the heraldic emblem of the red cross on a white ground formed by reversing the Federal colours of Switzerland, or the words "Red Cross" or "Geneva Cross." The penalty, on summary conviction, is a fine of £10.

Official Trustee.—By the Official Trustee Decree, 1918, power is

given to the British Resident to appoint some fit and proper person to be Official Trustee for the Zanzibar Protectorate. The Government is liable to make good all sums required to discharge any liability which the Official Trustee, if he were a private trustee, would be personally liable to discharge, except when the liability is one to which neither the Official Trustee nor any of his officers has in any way contributed, and which neither he nor his officers could by the exercise of reasonable diligence have averted.

IX. WEST INDIES.

1. BAHAMAS.

[*Contributed by the* Hon. Harcourt Malcolm, O.B.E., K.C.]

Acts passed—22.

Although it was not found possible to continue recruiting generally, the House provided £1,000 as a special fund from which are to be paid the travelling expenses of individual volunteers who may desire to enlist for service at the Front, at one of the recruiting stations in either the United States or Canada.

Prædial Larceny.—The Prædial Larceny Act (No. 4), in addition to providing a substantial pecuniary penalty and term of imprisonment for the stealing of growing crops, also provides whipping for male adults or young persons. Special safeguards are prescribed in connection with the whippings. A Peace Officer or " authorised person " may arrest a " suspected person " without a warrant and he must bring such " suspect " before a magistrate as soon as possible. The burden of proving lawful possession is on the suspected person. The duration of the Act is two years.

Fibrous Plants.—The Fibrous Plant and Fruit Dealers Act (No. 5) consolidates and amends four Acts dealing with this subject and passed between 1889 and 1903. The Act provides for the registration of dealers in fibrous plants, fruits and vegetables, and for the keeping of books by such dealers. Stringent powers of detention are conferred on the police, and the burden of proof of lawful possession is on the person detained. The duration of the Act is five years.

Finance.—The Loan Act (No. 6) authorises the Governor in Council to raise locally, by the issue of debentures, a sum not exceeding £30,000. The loan is charged on the general revenue and assets of the Colony. The denomination of the debentures is £5 or any multiple thereof ; the rate of interest is 5½ per centum, payable quarterly ; and the currency of the debentures is two years. Detailed provision is made for the form, signature, resignation and redemption of debentures. The interest is a preferential payment out of the Treasury. Debentures exceeding £100 in value may be converted into debentures of a lower denomination.

War Tax.—The War Stamp Act Tax (No. 7) repeals and re-enacts with amendments 8 Geo. V. c. 3. It authorises the surcharging for the purposes of the Act of any postage stamp used in the Colony. The provisions of the Stamp Act, 1911, and the Post Office Act, 1914, with respect

to the procuring and disposition of stamps, etc., and for enforcing the collection of the stamp duties granted by those Acts apply, with the necessary modifications, for procuring and disposing of the stamps, etc., required under this Act and for enforcing the collection of the stamp duties granted by this Act. Cheques drawn or postal packets posted by a public officer or by the chairman of a public board are exempted from the operation of the Act. Any postal packet addressed to any person on active service out of the Colony, or to the British Red Cross Society, or to any other charitable war society is also exempt. Any stamp surcharged under this Act may be used to prepay postage on any postal packet posted for delivery in the Colony. The taxes imposed are—post-card (½*d.*) letter (1*d.*), parcel post packet and any postal packet containing dutiable matter (1*s.*), cheques, bills of exchange, import or export entries (1*d.*), export bill of lading (3*d.*). The duration of the Act is one year.

As in the Appropriation Act, 1917, there is a section in No. 22 donating to the British Red Cross Society one-half of the gross proceeds of the special issues of the one penny Queen's Staircase Stamp during the financial year 1918 to 1919.

Proclamations.—The Proclamations Act (No. 8) is a re-enactment of the Proclamations Act, 1914, with two important amendments. The first amendment requires that every Proclamation made under the Act shall be laid upon the table of both Houses of the Legislature within fourteen days after the date of such Proclamation, or, if the Legislature is not then in session, within fourteen days after the first meeting thereof after the date of such Proclamation. And if either House pass a resolution condemnatory of such Proclamation it shall thereby be revoked immediately. But this power of revocation does not extend to any Proclamation issued and expressed in such Proclamation to be so issued under specific instructions from the Secretary of State in connection with the Defence Scheme of the Colony and for the maintenance and preservation of Imperial interests. And no expenditure of public money shall be made under any Proclamation if the House of Assembly pass a Resolution condemnatory of any such expenditure. The second amendment requires a monthly return of expenditure to be laid upon the table of the House of Assembly when the Legislature is in session. This Act expires on June 18, 1919.

Public Officers' Salaries—The Subordinate Officers' Temporary Increase of Salary Amendment Act (No. 10), includes certain employees of the Board of Education within the provisions of the Act and provides for the payment to any person acting for an officer serving with His Majesty's Forces of the whole proportional increase of salary to which such officer is entitled under the Act.

War Contingent.—The Bahama Islands War Contingent Amendment Act (No. 11) enables the Governor in Council to grant to any person who is dependent on any member of the Contingent a separation allowance not exceeding 5*s.* a week, although such person may not be one of the class of dependents mentioned in the principal Act. A list of all such grants must be laid before the House of Assembly, and, if the House passes a resolution disapproving of any grant it ceases to be payable as from the date of the passing of such resolution.

Public Officers' Salary.—The Public Officers' Continuation of Salary Act (No. 14) provides for the payment to the personal representative of

a public officer permitted to undertake naval or military duties during the war of the salary of such officer for a period not exceeding six months from the date on which such officer is reported missing.

Chamber of Commerce.—The Bahamas Chamber of Commerce (No. 15) transforms into a Corporation the Bahamas Chamber of Commerce which had existed as a voluntary association since 1907. It authorises the members to choose office-bearers and to make and prescribe rules for the government of the Society, legalises the use of a Common Seal, and qualifies the Society for holding and disposing of property and for appearing in Courts of Justice in its corporate name.

Sisal Inspection.—The Sisal Inspection and Grading Act (No. 17) restricts the exportation of sisal to the port of Nassau and such other port as the Governor in Council may permit, and requires every bale or package of sisal, before export, to be marked "Inspected" or "Uninspected." Inspection is not obligatory. A consignor not desiring inspection must, however, obtain a certificate that his sisal has not been inspected before he can export it. The Act provides for the appointment of an inspector at an annual salary not exceeding £300. It gives a wide rule-making power to the Governor in Council. The penalty of £10 is provided for the contravention of any of the provisions of the Act or of the Rules, and such contravention is to be dealt with summarily. There is also an Expense Section. The duration of the Act is two years.

Agricultural Students.—The Agricultural Students Training Act (No. 18) enables the Board of Agriculture, subject to approval and confirmation by the Governor in Council, to select in the year 1918, and in each of the next succeeding two years, two boys for the purpose of being agriculturally trained. The proposed students are to be subject to examination as to their physical and mental fitness and qualification. The benefits of the Act are restricted to natives of the Colony and to those whose parents have been resident in the Colony not less than six years. At the time of selection a student must not be less than seventeen nor more than twenty-two years old. He shall be entitled to three years' training in agriculture at the Hope Farm or some other similar institution in Jamaica and to the payment of his expenses while there, as well as his passage and incidental travelling expenses to and from Jamaica. He shall be under obligation to return to the Colony after completing his training and to remain in it for two years, unless released from such obligation by the Governor in Council. His father or guardian must enter into a bond to the Treasurer conditioned for the due fulfilment by the student of his obligation under the Act. Provision is made for the payment of £30 annually for three years for the maintenance and training of each student and also for the payment of passage money and other incidental expenses.

Public Officers' War Gratuities.—The Public Officers' War Gratuities Act (No. 19) provides gratuities for public officers who are injured by enemy action while travelling on duty to or from or within the Colony and also for the widows and children of such officers who are killed while so travelling during the present war. The scale of gratuities is similar to those obtaining in the West Indian Colonies.

Half-holiday.—The Friday Half-holiday Act (No. 20) enacts that every store, with certain exceptions, shall be closed on every Friday (except those in the month of December), which is not a public holiday, at 2 o'clock p.m., and shall remain closed until the next day. The Act

applies to a limited area of New Providence, including the city of Nassau. It applies to ice cream stores, tea rooms or bakeries only for certain hours, and it has no application at all to stores which deal only in goods grown or manufactured in the Colony. The purchaser as well as the seller is penalised. The duration of the Act is one year.

Public Officers' Leave of Absence.—The Public Officers' Naval and Military Service Leave Act (No. 21) enables leave of absence on pay for more than nine months to be granted to public officers serving with His Majesty's Forces. Under the previous law, 24 Vic. c. 10, a public officer ceased to be entitled to any pay after he had been on leave for nine months.

2. BARBADOS.

[*Contributed by* Sir W. H. Greaves, *Chief Justice.*]

Acts passed—25.

Requisitions.—The Requisition Act (No. 2) enables the Governor to take possession of and appropriate any goods in the Island, or in the territorial waters thereof, that may be required for any naval or military purposes, or for any purpose connected with the prosecution of the war. Provision is made for payment, and for relieving the owner of the goods taken from any penalty for breach of contract the fulfilment of which is prevented by such taking.

Explosives.—The Explosives Act (No. 5) prohibits the importation of explosives, other than gunpowder, except under licence from the Government. Dealers in prohibited explosives are required to keep a record of the names and addresses of purchasers, of the quantity sold to each purchaser, and of the alleged purpose for which such explosives were bought; and also to send a copy of such record within seven days to the police. Non-dealers are also required to notify the police of the sale, gift or transfer of any prohibited explosive.

Swine Fever.—The Swine Fever Act (No. 6) makes provision for preventing the spread of swine fever, and confers on the Governor in Executive Committee power to make such regulations as may be required for giving due effect to the provisions of the Act.

Protection of Children.—The Young Persons Protection Act (No. 13) forbids a person not over sixteen years of age, and not accompanied by a parent or guardian, to leave the Island for any country which has been declared by the Governor to be a prohibited place, unless the permission of the Governor has been obtained. Any such young person so attempting to depart may be arrested without warrant, and either fined or sent to the Industrial School. And any person other than a parent or guardian attempting to take away such a young person to a prohibited place without the Governor's permission is liable to be arrested and fined or imprisoned. Also a parent or guardian who consents to such a young person being so taken away without the Governor's permission is liable to punishment. If the police suspect that a parent or guardian is about to take away such a young person to such a place, and that it is not for the young person's benefit to be so taken away, they may notify the parent or guardian that the young person is not to be taken away without the Governor's consent; and if the parent or guardian ignores the notification he is liable to punishment.

Dairies.—The Dairies Act (No. 17) is based on s. 34 of the Imperial

Contagious Diseases (Animals) Act, 1878 (41 and 42 Vict. c. 74), and confers on the Commissioners of Health of the several parishes of the Island the power to make by-laws requiring the registration and licensing of cow-keepers, dairymen and sellers of milk and their employees, and regulating the ventilation, lighting and cleaning of dairies and milk-shops, and the cleaning of milk-vessels, and prescribing precautions to be taken against the infection or contamination of milk.

Plant Diseases.—The Trade (Amendment) Act (No. 25) empowers the Governor to have any plants, seeds, or berries brought to this Island examined on board ship; and if any of them are found to be infected with any fungoid disease or insect pest known to be injurious to plant life, he may prohibit the landing; and, if satisfied of the danger of introduction of disease or pest from any other part of the vessel's cargo, he may also prohibit the landing of such part. The Governor may also prohibit the landing of any goods brought to this Island if he is satisfied that either of the above-mentioned plant diseases is likely to be introduced by the landing of such goods.

3. JAMAICA.

[*Contributed by the* Hon. E. St. John Branch, K.C., *Attorney-General.*]

Laws passed—17.

Venereal Disease.—Law 6 of 1918 provides that only Medical Practitioners or persons acting under their direct instructions shall treat venereal disease, and forbids advertisements dealing with the treatment of that disease. It makes it the duty of every person suffering from venereal disease to consult a medical practitioner and place himself under treatment until he is cured. Any person who knowingly infects another with venereal disease, or knowingly permits or suffers any act likely to lead to such infection, is liable to six months' imprisonment, and in addition to a fine of £100.

Bee Disease.—Law 9 of 1918 makes provision for preventing the introduction and spread of such bee diseases as "Foul Brood" and "Isle of Wight Disease." It gives the Governor power to direct the destruction of infected apiaries, and places the matter of compensation in his absolute discretion.

Criminal Evidence.—Law 15 of 1918 extends the provisions of the Criminal Evidence Law, 1911, to all Courts. The principal Law follows the provisions of the Criminal Evidence Act, 1898, of the Imperial Parliament, but the application of the measure was limited to proceedings in which the person charged was tried with a jury.

Registration of Firms and Persons.—Law 16 of 1918 follows, *mutatis mutandis*, the provisions of the Imperial Act 6 & 7 Geo. V. c. 58.

4. TRINIDAD.

[*Contributed by the* Hon. the Attorney-General.]

Ordinances passed—36.

The following are the more important ordinances likely to be of interest outside the Colony:

Emigration of Children.—The Children (Emigration) Ordinance

(No. 2), prohibits the departure of British children under the age of sixteen years to any foreign country to which the Governor in Executive Council shall apply the Ordinance unless accompanied by a parent or guardian, or unless the parent or guardian has obtained the Governor's permission. Up to the present the Ordinance has not been applied to any country. The object of this Ordinance is to guard against the possibility of a traffic in children arising which may result in their being reduced to a state not far removed from slavery, it having been found elsewhere that, even with the consent of their parents, children have been taken to foreign countries with the consequences above referred to. There is no reason to believe that such a traffic in children has so far arisen in the Colony, but the Government considered it advisable to be armed with necessary powers.

Income-tax.—The War Tax on Incomes Ordinance (No. 12), imposes a tax on incomes for the year 1918. The tax is to be paid for the purposes of the general revenue of the Colony, and is graduated from $4\frac{1}{2}d.$ per £1 for the first £1,000 up to 5*s.* per £1 beyond £10,000.

The War Tax on Incomes (No. 2) Ordinance (No. 33), imposes a similar tax on incomes for the year 1919, the tax being graduated from 3*d.* per £1 for the first £1,000 up to 3*s.* 4*d.* per £1 beyond £10,000.

Both Ordinances provides that no person (not being a company) shall be taxed on the first £500 of his income, and that income on which British income-tax is paid is exempt.

War Contribution.—The Local Loan Ordinance (No. 15), authorises the Government to raise £100,000 to be presented to His Majesty as a contribution towards the expenses of the war. This has been done, the sum of £100,000 having been paid to the Imperial Treasury on September 17, 1918. This sum is in addition to the sum of £100,000 already presented to His Majesty, being the proceeds of a special War Income-tax, for the year 1917, levied under the War Contribution Tax Ordinance, 1917 (No. 1 of 1917).

Cinematograph.—The Cinematograph (Amendment) Ordinance (No. 26), prohibits the exhibition of any cinematograph film unless it has been previously approved by censors to be appointed by the Governor. Approval is not to be given to any film which, in the opinion of the censor, "depicts" any matter that is against public order and decency, or the exhibition of which, for any other reason, is in the opinion of the censor undesirable in the public interest.

5. WINDWARD ISLANDS.

(i) ST. LUCIA.

[*Contributed by the* HON. J. E. M. SALMON.]

Ordinances passed—25.

Civil Code.—No. 20, Civil Code (Judicial Hypothecs) amendment. This Ordinance (s. 2), by an addition to Article 1923 of the Civil Code, prescribes what property is to be affected by a judicial hypothec (*a*) generally and (*b*) specially for crop advances or supplies.

Copyright.—By s. 2, No. 14 enacts provisions for the application of s. 14 of the Imperial Copyright Act, 1911, to the importation into the Colony of works made out of the Colony.

Courts.—No. 9 provides that the absence of the seal is not to invalidate, and that a seal may be directed to be affixed at any time (s. 2). The civil and appellate sittings of the Court may be also fixed by proclamation, or the judge's direction (s. 3). The rights and duties of the Administrator-General respecting the estates of bankrupts are prescribed by s. 4.

Criminal Law and Procedure.—No. 18 amends the law as to appeals from magistrates in proceedings for a summary conviction, by allowing appeals against dismissals in the absence of express statutory provision to the contrary, requiring appeals to be decided on the merits, and giving the Royal Court power to amend or to give such judgment or make such order as it considers the District Court or magistrate should have given or made in the circumstances. It also provides that the pronouncement of a sentence for the imprisonment of any person shall be a sufficient warrant for his commitment to prison (ss. 2 to 6). It also by s. 6 empowers the magistrate holding a preliminary inquiry to reduce a charge from indictable to summary and trying it as such in certain cases.

No. 25 is an Ordinance to amend the criminal law and procedure, and provide for revision thereof. Ss. 3 to 124 amend the law as to certain offences, ss. 125 to 170 amend summary offences procedure, ss. 172 to 210 amend the law as to appeals from magistrates, ss. 211 to 232 amend the law as to juries, ss. 223 to 261 amend the law as to preliminary inquiries in indictable cases, and ss. 263 to 316 contain amendments generally as to arrests. bail, evidence, compensation, costs, execution and certain other matters. Inasmuch as the Ordinance was passed really preparatory to revision, s. 497 provides that " it shall be lawful to incorporate the foregoing provisions of this Ordinance in the revised edition of the *Criminal Law and Procedure* authorised by this Ordinance; but the said provisions shall only come into force and effect as the law of the Colony on the coming into force and effect of the said revision and in so far only as the same may be incorporated in and form part of the said revision." Part III., ss. 499 to 507, which deals with revision, appoints a Commissioner and makes provision for the printing and publication of the contemplated revision.

Crop Advances.—The object of No. 24 is to penalise the misapplication of funds borrowed for agricultural purposes. It is modelled on the Barbados Agricultural Aids Act No. 2 of 1905. The Ordinance provides for inspection, entry and cultivation by a creditor (ss. 3 to 5), accounts and misapplication by debtors and others (ss. 6 to 9), sale of crops and repayment and discharge of privileges (liens) on the crop (ss. 10 and 11). S. 12 provides for liability in the case of a partnership, company, society or association, and s. 13 saves the right to take civil proceedings.

Education.—No. 1 of 1918 is taken from the Grenada Scholarship Ordinance. Ss. 2 to 5 provide for the establishment of an annual scholarship called the St. Lucia Scholarship, of the value of £175, tenable during membership of any university or college in Europe or Canada, or any agricultural, scientific or technical college or institution in Europe, Canada, or the United States of America approved by the Governor in Council. Ss. 6 and 7 provide for qualifications and examination for the scholarship, such examination to be the London Matriculation examination. Ss. 8 and 9 regulate the selection and course of study. S. 10 provides for the forfeiture of the scholarship and s. 11 authorises a grant

from public funds towards the travelling expenses of the scholar to the selected institution. By s. 12 the Governor in Council is empowered to make regulations prescribing further conditions under which the scholarship may be held and generally for the better carrying out of the provisions of the Ordinance. Regulations (No. 16 of 1918) prescribing additional conditions as to conduct and authorising a grant for medical expenses of such sum as the Governor in Council and the Legislature may approve, were made and published on October 5, 1918, and approved by the Legislative Council by notice No. 7 of 1919 published on July 12, 1919.

Interpretation of Laws.—No. 15 amends No. 51, 1916 Revision, by defining "steamer," "steamboat," "steamship," "steam-vessel" or any expression denoting craft propelled by steam as including any like craft propelled by machinery, whatever the motive power may be.

Statute Law Revision.—Laws (Publication and Revision), s. 3 of No. 23, provides that, without prejudice to any other mode of publication, a law, including a revision, may be brought into force by a notice in the *Gazette*, stating the date when such law shall come into force and such date on such law shall be recognised as the date the law came into force, and further that the publication of the notice followed by the issue of a law therein referred to on or before the date stated in the notice is to be a sufficient compliance with any provision requiring publication in the *Gazette*. By s. 4 the production of a copy of the *Gazette* containing any law, or the production of any law purporting to be printed at the Government Printing Office, or by the Government printers, or by any printer for the Government, is *prima facie* evidence of validity. Powers of revision are provided by ss. 5 and 7 and by s. 7, on approval of any revision of Ordinances by the Legislative Council and of other laws by the Governor in Council, Board or other authority for making or authorising such laws, the revision shall be included, and, if necessary, numbered among the laws of the year in the class to which it belongs, and it shall have the same force and effect as any law which it replaces, subject to His Majesty's power of disallowance, or direction. By s. 8, on the date a revision comes into force, the laws repealed by it are to be replaced by its provisions; s. 9 requires, however, that alterations or amendments of substance are to be made by legislation in the ordinary way. This Ordinance should prove useful in improving the form of legislation and for purposes of consolidation, which under its provisions may be continuous, instead of at very long intervals as hitherto, when the statute-books become congested and the task of revising or editing becomes tedious and laborious.

Liquor.—No. 16, Liquor Licence Amendment amends No. 119, 1916 Revision. Closing hours are dealt with in ss. 3 to 7, and s. 8 regulates the disposal of spirits to soldiers and naval men. By ss. 9 to 13 the transfer, removal or renewal of a licence are regulated. Ss. 14 and 15 provide against unauthorised internal communications, entrances and alterations in the case of a retail spirit shop. The disposal of liquor to, or employment of, minors for disposing of or serving liquor are dealt with in ss. 16 and 17. The liability of and proceedings against a licence-holder are provided for in ss. 18 and 19. Provisions as to evidence and onus of proof are contained in ss. 20 to 26, as to appeals in ss. 27 and 28, powers of entry, inspection and seizure, in ss. 29 to 31, conditional release of thing seized in s. 32, claims and forfeitures in case of seizure in ss. 33 to 35, sales of forfeitures in s. 35, protection of officers and

others in ss. 36 to 39, and penalties and their mitigation and remission in ss. 40 and 41.

Loans.—No. 10, Local Loan, authorises the raising of a further sum of £10,000 at 5 per cent. interest for the construction and improvement of roads and bridges.

Navigation.—No. 11, Boats (Licence and Navigation) aims at preventing overloading and overcrowding and accidents in the case of craft plying in the waters of or around the Colony. Ss. 3 and 4 govern the obligation to license and the power to exempt from licensing. S. 5 provides for inspection and certificate and s. 6 for marking. Licences, their refusal or revocation, transfer, or publication are provided for in ss. 8 to 15. Offences, penalties and proceedings are dealt with in ss. 16 to 18, and detention, seizure, release and sale in ss. 18 and 19. This Ordinance repeals the Boat Licence Ordinance No. 10, 1916 Revision.

No. 8, Intercolonial Passenger Ships amendment, amends No. 39 of 1916 Revision. It provides for passenger ships' certificates in s. 4, the number of passengers to be carried in s. 5, reporting arrivals and departures of persons in ss. 6 to 10, and respecting food, water and safety in s. 12.

Oaths and Affirmations.—No. 21, Oaths and Affirmations, authorises the administration of oaths by Courts, judicial officers and persons having by law or consent of parties authority to hear and receive evidence. The general manner of administering an oath is to be by holding the book without being required to kiss it, and by saying or repeating the words of the oath. Roman Catholics and others who so desire may hold up a crucifix instead of the book (s. 4). S. 5 allows oaths to be taken in the Scottish form. S. 6 authorises the administration of an oath in such form as a person declares to be binding on him. S. 7 allows oaths to be taken as heretofore, and s. 8 provides for the validity of any oath taken. Affirmations are dealt with in ss. 9 to 12, and by s. 13 evidence of children may be allowed without oath, but must be corroborated. Perjury in the case of a person affirming or of a child is dealt with in ss. 12 and 13 (2) respectively. The power to appoint or to swear interpreters is governed by ss. 14 and 15 respectively.

Revenue.—No. 6, Customs Tariff Amendment, amends No. 110, 1916 Revision, increasing the duty on certain articles (principally liquor and tobacco), but it is to cease to operate at the termination of the war or on the expiration of such period thereafter as the Legislative Council may determine by legislation to be published in the *Gazette*.

No. 7, Export Duties Amendment, prescribes that the export duty on cocoa to the United States of America is to be charged on the value of the New York market as stated in the public telegrams. It has been repealed by No. 19 of 1918, as it was only a temporary measure due to war conditions, and to remain in force only during the restriction of cocoa importation into the United Kingdom.

No. 3, Income-tax Amendment, by s. 2, repeals s. 3 of the principal Ordinance, No. 117, 1916 Revision, and prescribes new rules of income-tax. Incomes under £50 are exempt.

No. 2, Stamp Duty Amendment, amends No. 23, 1916 Revision, as to production in evidence of unstamped instruments (s. 3), penalty on stamping after execution (s. 4), registration, enrolment, or filing of instruments required to be stamped (s. 5) and the production of originals by notaries for inspection (s. 6).

Timber.—No. 22, Timber Protection, provides for the appointment by the Chief of Police, with the sanction of the Governor, of certain persons called "authorised persons," who may arrest without a warrant suspected persons and take possession of any timber which the authorised person has reason to believe is not in the possession of the true owner, a suspected person being any person who has been or is in possession of any timber under such circumstances as shall reasonably cause any authorised person to suspect that such timber has been stolen or has been received knowing the same to have been stolen or has been in any other way dishonestly or unlawfully come by (ss. 2 to 4). Provisions for the trial for unlawful possession of timber are also contained in ss. 5 to 8; dealing in timber is regulated by the provisions of ss. 9 to 18, the duty and liability of a person offering timber to a dealer by s. 18, timber-cutting by s. 20, and the disposal of timber by order of the magistrate by s. 21. "Timber" is defined in s. 2, but the Governor in Council may by proclamation or notice in the *Gazette* include or exclude any timber or form of timber for the purposes of the Ordinance.

Trading with the Enemy.—Trading with the Enemy (Extension of Powers) amendment, amends No. 10 of 1916, so as to allow of the publication of lists of persons with whom trading is prohibited by notice, referring to the Proclamation or Order setting out such lists and the place where they can be inspected by the public, instead of publishing the Proclamation or Order.

(ii) ST. VINCENT

[*Contributed by the* HON. A. DE FREITAS, O.B.E., *Chief Justice of St. Lucia.*]

Ordinances passed—29.

Locke King's Acts.—Ordinance No. 1 is an adaptation of the provisions of the English Real Estate Charges Acts, 1854, 1867 and 1877 (17 & 18 Vict. c. 113; 30 & 31 Vict. c. 69 and 40 & 41 Vict. c. 34). The Legislature of the Colony has at last restricted the right of an heir or devisee of mortgaged real estate to claim payment of the mortgage debt out of personal assets.

Contingent Remainders.—S. 1 of the English Real Property Act, 1845 (8 & 9 Vict. c. 106), repealed s. 8 of 7 & 8 Vict. c. 76 as from its commencement, which s. 8 had abolished contingent remainders, and the 1845 Act repealed the rest of 7 & 8 Vict. c. 76 as from October 1, 1845. In 1851 the Legislature of St. Vincent passed a Land Transfer Act, No. 85, which was an exact transcript of the repealed 7 & 8 Vict. c. 76. The ignoring of the then existing English law, in 8 & 9 Vict. c. 106, resulted in the abolition of contingent remainders in the Colony while they continued to exist in England. Ordinance No. 4 of 1918 has at last removed this anomaly, and has brought the local law into conformity with the existing English law.

Bigamy.—S. 101 of the Indictable Offences Ordinance, No. 26 of 1911, provided that a married person who in the life-time of his or her consort marries another person in this Colony, "or elsewhere," shall be punishable in St. Vincent, thus closely following the English law in 24 & 25 Vict. c. 100, s. 7.

Having regard to the judgment of the Judicial Committee of the Privy Council in *McLeod v. Attorney-General of New South Wales*

(1891 : App. Cas. 455), Ordinance No. 5 of 1918 was passed to amend that s. 101 by omitting reference to a second marriage contracted elsewhere than within the territorial jurisdiction of the Colony.

Slander of Women.—No. 16 of 1918 is a transcript of the English Slander of Women Act, 1891, 54 & 55 Vict. c. 51.

Emigration of Children.—Cases having occurred where young coloured natives of the West Indies had been taken to foreign countries, and there kept under conditions of peonage, Ordinance No. 17 of 1918 was passed to prohibit children under sixteen years of age from leaving the Colony, unaccompanied by a parent or guardian, for any foreign country to which the Ordinance is made to apply, unless the Governor's permission has been obtained.

Partition.—The St. Vincent Partition Act, 1872, contains provisions similar to those of the English Act 31 & 32 Vict. c. 40. Ordinance No. 18 of 1918 supplements those provisions by enactments in the terms of the English Partition Act, 1876, 39 & 40 Vict. c. 17, ss. 2–7.

Dogs injuring Animals.—No. 19 of 1918 adopts the terms of s. 1 of the Dogs Act, 1906, 6 Edw. VII, c. 32.

Gaming and Wagers.—No. 20 of 1918 is a transcript of s. 18 of the English Gaming Act, 1845, 8 & 9 Vict. c. 109, and of the English Gaming Act, 1892, 55 & 56 Vict. c. 9.

6. LEEWARD ISLANDS.

(i) ST. CHRISTOPHER AND NEVIS.

[*Contributed by the* Hon. W. M. Wigley.]

Ordinances passed—16.

Alien Missionaries and Teachers.—No. 3 prohibits preaching or teaching by aliens without the permission in writing of the Governor, and provides for the expulsion of those landing in contravention of the Ordinance.

Cotton.—Sea Island Cotton is an important product of the Presidency, the cotton produced being of the finest and best quality. The export was prohibited at the end of 1917 and the cotton purchased by the Imperial Government. Ordinances Nos. 7, 8 and 15 provide for the eradication of the pest known as the "Cotton Stainer," and regulate the seasons for the planting of the cotton, in various districts of the Presidency.

Prohibited Imports.—Ordinance No. 11 gives the Governor power to prohibit the importation of goods during the continuance of the war.

Friendly Societies.—No. 16 declares legislation with regard to Friendly Societies to be within the competency of the Federal Legislature.

X. MEDITERRANEAN COLONIES.

1. CYPRUS.

[*Contributed by the* HON. STANLEY FISHER, *Chief Justice.*]

Six laws were passed, of which two were Appropriation Laws.

Women and Girls Protection.—No. 3 deals with procuration and unlawful carnal knowledge. The wording is substantially the same as that of ss. 2, 3 and 16 of the Criminal Law Amendment Act, 1885, omitting the provisoes in the two first-mentioned sections with regard to corroboration, as to which Clause 196 of the Cyprus Courts of Justice Order 1882 is an enactment of general application in criminal cases.

Compulsory Land Purchase.—Land Acquisition (Amendment) Law, 1918, makes good what was deemed a deficiency in the Land Acquisition Law, 1899, and provides for the compulsory acquisition of "land," including grazing rights, water rights, buildings, trees, easements, standing crops, etc., for any "undertaking of a public nature, civil, naval or military, which the High Commissioner shall by notification in the *Cyprus Gazette* declare to be an undertaking of public utility, whether the cost of such undertaking is to be borne by the public funds of Cyprus or by His Majesty's Naval or Military Authorities."

2. EGYPT.

[*Contributed by* W. MAKRAM EBEID, ESQ.]

Laws passed—19.

The legislative output for 1918 was exceptionally poor, the Government's activity turning principally upon the study of schemes of judicial reorganisation, to be carried into effect on the eventual abolition of the Capitulations. The work of the Capitulations Commission and its various Sub-Commissions continued uninterruptedly until November, when political effervescence throughout the country, which was then at its incipient stages, turned the attention of the Government to matters of a different order. Since then, the sittings of the Capitulations Commission have been suspended.

Fiscal Laws.—Law No. 6 is the Budget. Law No. 13 introduced paper money of P.T. 10 in order to relieve the silver crisis; but, as silver continued to be scarce, a later Law, No. 14, authorised the circulation of P.T. 5 Notes, payable by the Treasury. Law No. 17 modifies a previous law of 1911 as to immunity from seizure of government salaries and pensions. The present law provides that all government salaries, pensions or indemnities of any kind shall be exempted from seizure or assignment, except for sums due to the State or to persons entitled to alimony, in which cases one-fourth only of the salary may be seized or ceded.

Such immunity is further extended to employees of Provincial Councils and of the Municipality of Alexandria.

Interior.—Law No. 1 amends a previous law of 1914 as to the fixing of maximum prices for food-stuffs and other articles of first necessity. No. 5 revises the whole system of supply and institutes a Supply Control

Board, replacing the old Supply Department and the various provincial branches. The new central organisation is invested with extensive powers for fixing prices, etc., to be exercised under martial law over all the inhabitants, including foreigners.

Under this head may also be mentioned an interesting *Arrêté* of the Minister of the Interior (dated February 4), authorising the creation of Village Councils. Hitherto, only the larger towns have had their municipalities or local commissions, as they are generally called in Egypt.

Public Health.—Law No. 3 provides for new preventive measures against Cholera. Law No. 15 regulates the employment of assistant chemists.

Agriculture.—Law No. 4 prohibits the slaughter of young buffaloes and calves. Nos. 11 and 19 lay down certain measures for the destruction of the cotton boll-worm. No. 18 prohibits the growing of opium poppy, with a view to increasing the corn-growing area in Upper Egypt.

Education and Arts.—Law No. 8 provides certain measures for the preservation and protection of all monuments of historical importance dating back to the Arab Conquest of Egypt, including Coptic relics. Such relics are kept in a separate establishment, to distinguish them from the older relics of ancient Egypt. No. 16 modifies the Regulations of the Sultanieh Training School.

Justice.—Law No. 2 prolongs the existence of the Mixed Courts for a still further period of one year, pending the abolition of the Capitulations and the unification of the Egyptian Courts. No. 7 transfers the jurisdiction of the Mehkemeh of Giza to that of Cairo. No. 10 amends the provisions of a previous law of 1896 instituting the Meglis Hasbys (Courts of Wards). The new law modifies the composition and venue of these Courts. A Meglis Hasby is now composed of an administrative official (usually the Mudir or his deputy) as President, and of a religious Alem and a notable of the locality as members. Its jurisdiction bears some resemblance to that of a French *Conseil de Famille*. Law No. 12 amends a previous law of 1912 reorganising the Native Bar. Under the new law, an advocate before the native tribunals is not allowed to plead in his own name before the Central Courts until he has undergone a period of two years' probation and satisfied a commission of examiners instituted for the purpose. The object of this new law is to stem the growing influx of advocates by requiring a higher standard of capacity.

War Legislation.—The most noteworthy feature of this year's war legislation is the institution of a Commission for the control of cotton. The Cotton Control Commission, as it was called, constituted an innovation of a distinct type, and was set up by an official Notice under the signature of both the Commandant-in-Chief and the Prime Minister (cf. *Journal Officiel* of June 17, 1918). The preamble to this Notice says that "Whereas the British and Egyptian Governments are in agreement that for war purposes it is expedient to make further provision for the control of cotton produced in or exported from Egypt, a Commission is hereby set up and entrusted with the purchase of such cotton and its sale for export." The intervention of the Commandant-in-Chief was considered necessary in order to render the scheme binding on all the inhabitants without distinction of nationality.

The Commission was also invested by the said Notice with the powers of a body corporate (in Egypt corporate capacity is usually conferred by law, rarely by the Courts). Under this Notice, the whole cotton crop of

the country was subsequently bought by the Government at a fixed price.

By a Proclamation of January 20 (*Official Journal*, No. 14 of 1918) kerosene is declared to be an article submitted to military control. Special powers are therefore accorded to the controller of kerosene with a view to securing its equitable distribution. A Proclamation of May 22 (*Official Journal*, No. 44) interprets a previous proclamation as to the manner of assessment of Ghaffir cess. Various other Proclamations regulate trading with enemy houses in enemy or neutral territory.

3. GIBRALTAR.

[*Contributed by* Captain Maxwell H. Anderson, C.B.E., K.C., R.N. (ret.), *Attorney-General.*]

During the year 1918 twenty-seven Ordinances were enacted, of which twelve were passed to deal with matters arising out of the war, three for revenue purposes and six for the purpose of bringing the local law into substantial agreement with that at home. Six Ordinances were enacted dealing with purely local affairs, such as the feeding of the apes which inhabit the Rock or matters of interest only to the individual concerned.

Revenue.—Nos. 6, 16 and 20 made alterations in the duties on wines, spirits and tobacco, also certain alterations in port dues, and provided for an export tax on coal at 1s. per ton.

Criminal Law.—The Indictments Ordinance (No. 12) substantially enacts the Imperial Indictments Act (5 & 6 Geo. V. c. 90) and in similar manner the Larceny Ordinance (No. 15) applies locally so far as applicable the Larceny Act, 1916 (6 & 7 Geo. V. c. 50).

Corruption.—The Public Bodies Corrupt Practices Ordinance (No. 7) and the Prevention of Corruption Ordinance (No. 3) are the local application of the similar Imperial Acts (viz. 52 & 53 Vic. c. 69 and 6 & 7 Geo. V. c. 64).

Markets.—The Markets Ordinance (No. 3) repealing somewhat similar legislation of 1883, provides for the government of the markets, the control of food-stuffs and of slaughter-houses.

Copyright.—The Copyright Ordinance (No. 17) provides for the application of the Imperial Copyright Act, 1911 (1 & 2 Geo. V. c. 46).

Bills of Exchange.—The Bills of Exchange (Time of Noting) Ordinance (No. 25) enacts the same Imperial legislation (7 & 8 Geo. V. c. 48).

Post Office.—The Post Office Amendment Ordinance (No. 11) was enacted to dispense with the provision in the original legislation that rates of postage between Gibraltar and other places must receive the sanction of the Treasury, and of the Postmaster-General. This ordinance was passed in order to allow of a temporary war tax on letters (*vide infra*).

Summer Time.—The Summer Time Ordinance (No. 10) provides for the advancement of time to one hour ahead of Greenwich Time during such part of the summer as is ordered by Proclamation.

Post Office.—The Post Office (War Tax) Ordinance (No. 12) provides for an extra halfpenny charge on letters for local delivery or transmission to any part of the British Empire. By a further ordinance (No. 19) the charge was also made on letters addressed to any place in Morocco where a British postal agency is established. By Ordinance (No. 24) the charge was repealed as from the end of the year.

Emergency Powers.—Two Ordinances (Nos. 2 and 14) were enacted. No. 2 extends to Marine and Coroner's Courts the powers of sitting on Sunday or other *dies non*, while the chief effect of No. 14 is substantially the local application of the Imperial Act (7 & 8 Geo. V. c. 15).

Registration of Business Names.—This Ordinance (No. 21) is the local application of the similar Imperial Act (6 & 7 Geo. V. c. 58). An amending ordinance (No. 27) was enacted later, the effect of which is to provide for the appointment of a committee to investigate and to report to the Governor upon any appeal against a misleading business name.

Trading with the Enemy.—Ordinance (No. 4) provides for a compulsory return by British subjects of all property in territory in enemy occupation, and also of all claims against persons, firms, etc., residing there. A second Ordinance (No. 22) forbids the carrying on of banking business for the benefit of or under the control of enemies after the war, and is the application to local conditions of the Imperial Act (8 & 9 Geo. V. c. 31).

Wills.—The Wills (Soldiers and Sailors) Ordinance (No. 26) is the Imperial Act of a similar nature (7 & 8 Geo. V. c. 58).

Insurance.—The War Risks (Insurance of Trustees) (No. 9) is the similar Imperial Act (6 & 7 Geo. V. c. 6).

4. PALESTINE

[*Contributed by* Lieut.-Colonel Norman Bentwich, M.C.]

The southern part of Palestine, corresponding with the Judæa of the Bible, has been in British occupation since December 1917 ; the rest of the country, as far north as the Ladder of Tyre and Safed, has been occupied since October 1918. The area under British control has comprised the three Turkish Sanjaks or Departments of Jerusalem, Nablus and Acre, and nearly corresponds with Biblical Palestine west of the Jordan. It has been governed by what is called the Occupied Enemy Territory Administration, appointed by and directly responsible to the Commander-in-Chief of the Egyptian Expeditionary Force. In the Proclamation issued by General Allenby on December 9, the day of the entry into Jerusalem, he declared the city to be under martial law ; and explicitly or tacitly that condition has been extended to the rest of the occupied territory. The occupant has therefore been entitled to issue such ordinances and regulations as he found necessary for the security of the Army and the better administration of the country. By the laws and usages of war he has been prohibited from changing the laws of the country, imposing new taxes, or setting up a new form of Civil Government which would involve a change of sovereignty. But under the same authority he has been justified in making temporary provision for the new circumstances in which the country has actually been placed. Though there is no legislative innovation to show in his record, it may be interesting to note the different kinds of quasi-legislative activity which the Military Administration has exhibited.

The legislation of the Occupant is formulated in Proclamations, Ordinances and Public Notices, and it may be classified under various heads.

Conduct towards Army.—First, there are the orders of the Commander-in-Chief to the people to refrain from any acts which might interfere with the Military Authority. The General Order to this effect

was defined by a Proclamation setting out the particular acts which were forbidden, and the obligations which were imposed. All persons were bound to comply with orders issued under the authority of the Commander-in-Chief, to furnish information reasonably asked for, and to render assistance to any person acting under the authority of the Commander-in-Chief, and not to make any false statements or be a party to a misleading document. A general clause of this Proclamation provided that any person amenable to the Ottoman Criminal Law who commits an offence punishable under that law, should, if the Military Authorities deem such offence to be to the prejudice of military interests, be liable to be tried by a Military Court. Military Courts were established in each district to try offences under martial law or contraventions of the various Proclamations and public notices which were issued by the Chief Administrator or the Military Governors in Palestine. They were composed of three British officers for the trial of more serious cases, and of a single military magistrate for the trial of less grave offences punishable up to six months' imprisonment.

Public Security.—Under this head may be placed public notices prohibiting persons from carrying firearms except with a licence of a Military Governor, and requiring all serviceable arms to be handed over. The only exception made was in favour of Bedouin Arabs living outside settled areas, who were allowed to retain obsolete firearms for their protection. Another order prohibited the selling of alcoholic liquor, except between certain hours. In the chief towns orders were issued forbidding the keeping of a disorderly house, except in a certain specified area, and imimposing severe penalties on the use of a house for such purposes outside the area, as well as on any person committing the offence of soliciting.

Currency.—A military occupant should not normally change the established currency of the occupied country, but the circumstances in Palestine were peculiar. The Ottoman Government had displaced the gold and silver coinage by a paper money which was enormously depreciated, but which was imposed on the people for all official payments by Government compulsion. At the time of the occupation, the hundred-piastre note was worth less than 20 piastres, and the people were suffering severely from the use of the inconvertible paper. To help them and at the same time to enable the Army to purchase commodities from the country, an Order was published that Egyptian coinage and Egyptian banknotes should be accepted as legal tender; and, to prevent the operation of Gresham's Law, Turkish notes were declared not to be legal tender in occupied enemy territory. A tariff was fixed for all gold and silver coinage, Turkish as well as foreign, and it was made an offence to deal or speculate in currency with a view to depreciating or appreciating it. The export of gold was prohibited altogether. By these means the currency was stabilised to a degree unknown in the days of the Ottoman regime.

Commerce.—Power was granted to Military Governors to forbid the export of cereals and other necessaries of life outside their territory, because of the needs of the population. Powers were also given to fix a maximum tariff for such necessaries of life, in order to check profiteering, which is universally an evil consequence of war. In order to check the formation of bogus companies and partnerships, the registration of all commercial associations was enforced; and a new company had to obtain the authorisation of a special Commission before starting busi-

ness. The Courts took the place of the Turkish Ministry as the Registration Authority.

Civil Courts.—The proclamation re-establishing the administration of Justice which was issued in June 1918 from Jerusalem contained several features of interest. In the first place, the Courts were declared to be of *general* jurisdiction; and the special tribunals which prior to the war were constituted for the trial of foreigners in virtue of the Capitulations were not renewed under the military occupation. The Capitulations had been denounced by the Turks in 1914; and, without recognising the validity of that unilateral act, the military occupant carried on a system which he found in operation. The organisation of the Civil Courts, which was embarrassingly complicated in the Ottoman system, was considerably simplified, and the right of recourse to the Court of Cassation at Constantinople was abolished. The Moslem Religious Courts which had jurisdiction in all matters of personal status of Moslems were re-established, and kept their previous jurisdiction. A special Court of Appeal from these Courts was constituted to take the place of the Appeal to Constantinople, which was provided in the Ottoman regime. The similar Courts of the Christian and Jewish Communities in all matters of personal status of Ottoman subjects were maintained without any modification, except that where in any suit the parties were members of different religious communities, and one of them objected to the jurisdiction of the religious court, it was provided that the case might be transferred to the Civil Court. The Civil Courts were further given the jurisdiction which used to be exercised by the Consular Tribunals in matters of personal status affecting foreign subjects, and in such cases they were to apply the personal law of the parties concerned. Special rules of Court were enacted to provide for the constitution of the Court in proceedings in which a foreign subject was a party. The Courts were given power to suspend execution where satisfied that, owing to the war, the judgment debtor was unable to pay his debts in full; and they were prohibited from ordering the sale of any land in execution of a judgment or satisfaction of a mortgage. They were further prohibited from giving any judgment deciding the ownership of land, but they could decide as to the possessory rights without prejudice to questions of ownership.

Religious Courts.—A law amending and codifying the Moslem system of rules concerning marriages and family relations, and a law amending the procedure of the special religious courts were promulgated in the Ottoman Empire between the occupation of Jerusalem and the occupation of Northern Palestine. As the new laws were regarded by the best Moslem opinion as constituting a great improvement, they were applied to the whole country by Ordinances of the military administration. It is noteworthy that the Ottoman law included a provision that persons proposing to marry must produce a medical certificate of fitness before the Kadi could issue a licence. No attempt indeed appeared to have been made to execute the provision; but the Ottoman legislation not infrequently bears traces of most progressive ideas, probably because the legislative bureau have a good service of translations of the laws of foreign countries.

Land Transactions.—The Turks removed all the Land Registers prior to our occupation of Jerusalem; and, as the Ottoman Land Law requires all transactions in land to be registered in the Land Registry, no sales or

mortgages or other dispositions could legally be carried on. The Registers were subsequently recovered after the fall of Damascus, but, in order to prevent speculative dealings until transactions could be properly controlled, a Proclamation was issued prohibiting all dealings in immovable property other than leases for a period not exceeding three years.

Rents.—In Palestine, as elsewhere, measures had to be taken in the interests of the people to prevent the extortionate raising of rents in the towns by the landlords. New building was impossible, owing to the absence of certain materials; and, as landlords tended to abuse their opportunities, power was given to the Military Governors to prohibit any increase of rent or to allow only an increase at a fixed percentage, as seemed necessary. Tenants under a contract were empowered to stay on for a further period at the expiry of the current agreement upon the old terms, unless the landlord proved to the Court that he had good reason for requiring their removal.

Public Health.—The provisional administration introduced a number of important measures for safeguarding the public health of the population, a part of government very defective in the Turkish regime. Besides requiring the registration of births and deaths, it made the notification of all infectious diseases compulsory. A certificate was required from the Public Health Office before burial could take place, and burials had to be carried out not later than forty-eight hours after death and before sunset. Vaccination was made compulsory within three months of birth, and was performed free by the Public Health Department. The occupiers and owners of buildings were made responsible for keeping them and the premises in their immediate vicinity in a clean condition, and removing any deposit of house refuse or street sweepings; and the Military Governors were given powers to prohibit the owner or occupier from using premises certified to be unfit for human habitation.

The International Regulations concerning quarantine were put into operation at the ports, and on the frontiers of Palestine, in order to prevent the introduction of plague and other dangerous epidemics which used to follow in the wake of the great Mohammedan pilgrimage to Mecca that passes yearly down the east side of the country.

Registration.—Ordinances were issued requiring the registration of persons exercising semi-public functions, such as petition-writers, doctors and veterinary surgons. Another Ordinance required the registration of all motor vehicles. Motor traffic was a new phenomenon in Palestine, and the building of motor roads by the Army led to a large introduction of private cars. Regulations were also made to control the speed of motor vehicles and requiring the driver to have a certificate of fitness.

Cruelty to Animals.—The Turkish law in regard to cruelty to animals was wofully defective, and it was found necessary to issue a new Ordinance imposing substantial penalties for ill-using and over-working animals, and providing also for compulsory hospital treatment where an animal was being worked in an unfit condition. The Administration established such hospitals in the principal centres.

Antiquities.—The monuments of Palestine are the concern of the whole of the civilised world, and the provisional Administration found it necessary to take measures for their protection. There is indeed Ottoman legislation on the subject, but it did not entirely fit the new circumstances. Accordingly all antiquities in the country were vested by Proclamation in the Administration; and it was forbidden to dig for antiquities or deal

in them save with a licence. Notice must be given of any treasure or antiquities that are discovered, under severe penalties for default ; and it is made an offence to cause injury, whether wilfully or by negligence, to any ancient monument.

Afforestation.— The country, which was already sadly denuded of trees, suffered severely during the war from the cutting down of wood by the Turkish Army. To prevent further mischief, an Ordinance was issued prohibiting the cutting of any olive, oak or carob tree without the express consent of a military governor. It was no defence to a charge under this notice that the trees were cut down to fulfil a contract for the supply of wood to the Military Authorities.

Custody of Enemy Property.—For two years after the occupation no public custodian of enemy property in Palestine was appointed, and, though all enemy subjects who were considered dangerous were interned in Egypt, they were allowed to make their own arrangements for the disposal of their property. At the end of 1919, however, when a question arose of setting up a clearing-house for dealing with debts owing to and from enemy subjects on the lines provided in the Treaty with Germany, and when also it became desirable to make arrangements for the management of the immovable property of enemy subjects, an official of the Administration was appointed in whom was vested all the property, movable and immovable, of the enemy subjects. He was given powers to obtain a declaration as to the property of German, Austrian and Bulgarian subjects; but for this purpose Ottoman subjects who, of course, comprise most of the inhabitants, are not treated as enemy subjects. The public custodian cannot dispose of immovable property without the consent of the enemy owners, but he has full powers to wind up their businesses, and to bring and defend actions in the Courts.

General.—No change has been made in the taxation laws of the country, except that the taxes have been imposed as they stood before the outbreak of war, and new taxation introduced during the war has not been applied. For the most part, indeed, the Administration has been satisfied to apply the existing Ottoman laws fairly and equitably, as they had scarcely been applied before. It is only where those laws were inadequate to protect persons and property that they have been supplemented by the enactments of the Military Administration. The greater part of these temporary enactments are of passing utility only ; but some of them may prove fitted to pass into the permanent law of the country when it obtains a definite Civil Government.

XI. FOREIGN.

1. CHILE.

[*Contributed by* V. ECHEVARRIA, ESQ., *Consul-General in London.*]

The laws of international importance during 1918 are few. Amongst them may be mentioned the following:

Diplomatic Representatives.—A law of November 30 authorises the President of the Republic to exempt the diplomatic representatives of foreign countries accredited in Chile from fiscal and municipal taxes in the same terms as those adopted in their respective countries with regard to the Chilian diplomatic representatives.

Immigration.—A law of December 2 prohibits the entrance to the country of foreigners who have suffered sentence or who are under trial for crimes in accordance with Chilian Law, also to foreigners affected with contagious illness and to those that advocate the alteration of public order through violence.

University Degrees.—A law of December 4 approves the mutual exchange of University Degrees between the Republics of Uruguay and Chile.

Currency.—A law of December 30 postpones the term fixed for the conversion of the Chilian paper currency for gold up to December 31, 1919 (this term has been newly postponed up to June 30, 1920).

2. FRANCE.

[*Contributed by* M. C. SANSAS, *Docteur en droit.*]

High Court of Justice.—The law of January 5 establishes the procedure to be followed with regard to lodging the indictment, the preliminary inquiry, and the giving of sentence against the President of the Republic or Ministers before the Senate sitting as a Court of Justice for crimes committed in the exercise of their public functions.

Commercial Contracts entered into before the War.—The law of January 21 allows, under certain conditions, the right to claims in the Courts, the suspension or cancellation of such contracts; it does not definitely declare them to be an instance of *vis major*, but it leaves it to the judges to determine.

Liens and Hypothecs.—The laws of March 1 and May 31 modify Articles 2,108, 2,148, 2,150, 2,152 and 2,153 of the Code Civil. By the register of declaration creditors' claims of a hypothecary nature are abolished. The creditor produces to the Custodian of Hypothecs the original judgment or an authentic copy of it, or of the deed (*acte*) which gives rise to a lien or hypothec, with the addition of two identical (or conforming to each other) *précis* of the facts (*Judicieux*) signed and certified as collated with each other. These *précis* contain particulars of the civil status of the creditor and of the debtor, the nature of the obligation (*titre*), the principal sum owed and its accessories, and the nature and situation of the property affected. If anything has been omitted in the *précis* a judgment of nullity can only be given if the omission has prejudiced third parties. Legal hypothecs belonging to the State, to communes (districts), to public institutions, or to minors, or to

persons under incapacity, or to married women, are entered or registered upon the lodging of the two *précis*.

Rents of Properties.—The law of March 9 refers to disputes arising out of the war. It deals with restriction, cancellation by mutual consent, exoneration from liability, relief against unconscionable contracts, extensions, and adjournments. In matters outside these special points the existing Courts retain their general jurisdiction. The law contains 64 articles, it has only a temporary character, and it has a retrospective force as far back as August 1, 1914.

Monopolies and Unlawful Speculation.—The law of March 10 gives power to judges of first instance to go outside their ordinary jurisdiction as regards making all judicial *actes* required by the information.

Taxes upon Payments of Money.—The laws of March 22, April 5 and June 29 impose upon civil payments and certain payments in the course of commerce a tax of 20 centimes for every 100 francs or fraction thereof; for payment for articles of luxury the tax is 10 per cent.

Army Pensioners and Civilians who have suffered by the War.—The law of April 9 empowers companies to raise loans on immovable property or make loans to agriculturists in order to facilitate the acquisition or the improvement of small rural properties of which the value does not exceed 10,000 francs.

Frauds upon the Revenue.—The law of April 18 is aimed at preventing frauds to the prejudice of the Treasury in matters of transfer of property, especially after the opening of successions.

Legal Interest (or Contractual).—The law of April 18 suspends the provisions of the law of September 3, 1807, which restricted the rate of contractual interest in civil transactions during a period of time which may not be less than five years, beginning from the cessation of hostilities. Legal interest is fixed at 5 per cent. in civil transactions, and 6 per cent. in commercial ones.

Acts of Civil Status.—The law of April 25 empowers administrative authorities to rectify certain Acts (civil status) drawn up during the war.

Abandoned Lands.—The law of May 4 was passed with the view of facilitating for agriculturists the renewal of cultivation of their portions of land.

Military Justice.—The law of May 13 establishes the principle of secret voting in deliberations and of the accused person being allowed to communicate with his defending counsel from the beginning of the information proceedings. The law of October 18 gives to the Minister of War and the Minister of Marine the power to declare that the execution of the sentences of the Courts Martial shall be suspended.

Immovable Property.—The law of May 27 deals with the valuation of this property in questions of succession duties and exchanges.

National Defence Bonds.—The law of July 31 was intended to safeguard bonds and securities of National Defence of which the owners have been dispossessed, either by acts of war or by any other event.

Old Age Homes.—The law of August 5 modifies the existing law with regard to the National Treasury of these Homes.

Expropriation.—The law of November 6 modifies the law of May 3, 1841, and facilitates expropriation for purposes of public benefit.

Taxes.—The law of June 29, which prescribes the ordinary Budget provisions, by articles 12 to 22, and 33 to 35, raises the scale of tax upon registration (of transactions) and of stamps.

3. HOLLAND.[1]

Archives.—The law of June 17, 1918, regulates the arrangement and management of the records of the Government, the Provincial States and the Municipalities.

Taxation.—The law of January 11, 1918, levies a tax upon the dividends of companies, co-operative and other associations and mutual insurance companies established within the kingdom.

Allowances for High Cost of Living.—Various laws by which temporary or permanent increases are allowed to :

(1) Officials and functionaries belonging to the high offices of State and the Household of H.M. the Queen.

(2) Officials and functionaries as well as workmen connected with the State Mint at Utrecht.

(3) The widows and orphans of civil servants.

(4) Officials and functionaries of the post, telegraph and telephone services and of the postal cheque and transfer service.

(5) Officials and functionaries with the State Fisheries port at Ymuiden.

(6) The staff of the Government arsenals.

(7) Officials and functionaries belonging to the Departments of Finance, Home Affairs, Justice, the Admiralty, Local Government, War, Foreign Affairs and Colonies.

(8) Officials and ex-officials in the Dutch East Indies.

(9) The civil servants sojourning in this country on vacation in the enjoyment of vacation pay, or half-pay or pension, as well as the widows and orphans of civil servants of the colony of Dutch Guiana in the enjoyment of a pension or other maintenance allowance, who may be staying in this country.

Trade Register.—By the law of July 26, 1918, all commercial concerns established within the kingdom situate in Europe will be registered. The commercial register is to be kept by the Chambers of Commerce and Factories, each for so far as has reference to its district.

Smelting Works, Steel and Rolling Mills.—The law of July 26, 1918, contains authority for the State to contribute to the capital of a company limited by shares, having for its purpose the establishment and working of a Dutch Furnace, steel and rolling mills.

Landlord and Tenant.—By the law of March 25 measures are taken in order to prevent tenants, under the present extraordinary circumstances, from being evicted from their dwellings without valid reason.

Should the tenant be given notice to quit he may apply to the housing commission with a request to cancel such notice. This request must be made within a week from the time notice to quit has been given. The tenancy may from time to time be prolonged for six months.

Annual Trade Fairs.—A Budget Law of June 17 contains, *inter alia*, an advance, bearing interest, to the Association for the Holding of Annual Trade Fairs in Holland.

Agricultural Labourers.—By a law of April 20, 1918, agricultural labourers who satisfy various requirements and are Dutch subjects are enabled to acquire property in land or on a tenancy or lease. The plot

[1] Contributed through the International Intermediary Institute.

of land may not cost more than fl. 4,000, the rent may not amount to more than fl. 50.

Voluntary associations and municipalities are to co-operate in carrying out this law. The State grants advances bearing interest to the municipalities and such associations.

The workers are allowed to pay interest and annuities in weekly instalments.

For the carrying out of the law it is possible to take over land compulsorily.

Aviation.—A finance law of January 14 authorises an extraordinary credit, *inter alia*, for aviation.

Lignite.—It is desirable, in the present extraordinary circumstances, in the interests of the supply of fuel for the country, to bring to a state of development as speedily as possible the layers of lignite present in the soil of the country. A law of March 23, 1918, authorises that to be done without concession.

Housing.—The need of housing accommodation is so serious that immediate provision is required. By a law of June 17 it is left to the Municipal Councils to supply it. By another law of the same date fl. 15,000,000 is set aside to finance them.

Undesirable Aliens.—The Government and other Authorities are authorised by a law of June 17 to allot to foreigners staying in the country who are considered as being a menace to public order, safety, health or morals, or those who do not conduct themselves according to the regulations laid down by or pursuant to a general administrative measure, a definite place of residence within the kingdom in Europe, and to have such conducted thither ; it is also possible to deny such the right of residence in certain places within the kingdom in Europe and to have them removed from there.

The liberty of foreigners staying in this country to proceed abroad is not limited by the application of the foregoing measures.

Conversion of Fallow Land.—A law of July 27, 1918, contains regulations concerning the conversion of meadows and grazing land, fields of clover or artificial meadows to arable land. This measure is rendered necessary in order to increase the production of grain during the prevailing scarcity of food. It is compulsory to convert the plots to be indicated by the authorities into arable land.

Military Service.—A law of June 17, 1918, amends Art. 206 of the Criminal Code having reference to wilfully making oneself ineligible for military service.

The Zuider Zee.—A law of June 14 relates to the closing up and filling in of the Zuider Zee by means of a dam running from the coast of North Holland through Amsteldiep to the island of Wieringen and from that island to the Frisian coast near Piaam.

A commencement may be made with the work on May 1, 1924, or earlier. By a law of December 20 finances are provided for the purpose.

4. ITALY.

[*Contributed by* PROFESSOR MARIO SARFATTI, *University of Turin.*]

1918.

The prosecution of the war during nearly the whole year led to legislation by Decrees, instead of Acts of Parliament. The Decrees may be grouped as follows: (1) those pertaining to subjects of enemy States, including one of November 28, unifying in fifty-four chapters (*articoli*) all the preceding Acts; (2) those regarding the concession of naturalisation to unredeemed Italians (*irredenti*) and to foreigners; (3) those directed against troubles directly due to the special circumstances created by the war, both relating to (*a*) family, and (*b*) contracts; (4) those regarding industry and commerce.

Relations with Enemy (Decree No. 1,829, November 28).—The consolidating Act relating to transactions with enemy States and enemy subjects contains rules relating to dealings with goods and bills, prohibiting all trading with the enemy States, establishing the conditions for the importation and exportation of bonds, forbidding enemy subjects to continue suits or actions in civil matters before any jurisdiction whatsoever in the kingdom. It includes also rules for payments to enemy subjects and for their commerce, prohibits trading with enemy subjects, controls and eventually seizes and sells up all concerns belonging to them.

Relations with Enemy (Decree No. 414, March 24).—Control and seizure is ordered of all concerns carried on by Italians, allies and neutrals that have business with the enemy.

Naturalisation (Decree No. 870, June 30).—Naturalisation is accorded to Italians of the unredeemed countries (*irredenti*), so long as they have served in the Italian Army with fidelity and honour, for at least one year. Decree No. 180, July 14: foreigners who by law would be in a position to be naturalised cannot, during the war, defer the exercise of this right longer than the term fixed for the calling under arms of their class.

Legitimation.—Decree No. 721, May 23, is for the legitimation, by royal decree, of children of soldiers killed in war, or missing. The application to legitimate must be based upon a written declaration of the late father, or a verbal one made by him to an officer or a military chaplain, who is expected to make an official report within twenty-four hours. The request for the publication of the banns to contract marriage with the mother of the child, or an ensuing religious marriage with the mother, or a civil marriage declared null, may take the place of an explicit declaration of the father.

Rents (Decree No. 1,076, August 11).—The tenant who has executed the obligations of the contract has the right to an extension of the expired lease, unless the landlord can show that he really needs the dwelling for himself, or unless some other special circumstances arise. The extension, however, applies only to leases whose rents are not above L.It. 1,800 (£72) a year in communes of 100,000 inhabitants; L.It. 2,400 (£26) in communes of 200,000 inhabitants, and L.It. 4,000 in the others.

Agriculture.—Numerous decrees relate to agriculture, of which the principal are:

Decree No. 153, February 1, for the draining of land for agricultural utilisation ; Decree No. 147, February 14, for the control of cultivation and organisation of agricultural work ; Decree No. 880, June 30, relating to agricultural leases ; Decree No. 1,057, July 14, for the supply of agricultural machines to agriculturists ; Decree No. 1,218, August 4, on the letting of lands to agricultural co-operative companies ; Decree No. 1,700, November 17, on the maximum prices for the letting of pasture land.

Hotels (Decree No. 12, January 3).—The managers of hotels who have suffered a reduction in their receipts to the extent of one-third of the amount taken in the last three years preceding January 15 may pay a half of their rent, and the other half, plus 5 per cent. interest per annum, in six months' instalments, in the five consecutive years from the sixtieth day after peace is signed.

Food Supply (Decree No. 49, January 3).—Regulations are made for the organisation of the General Commissariat for provisions. Decree No. 583, April 21 : a committee decides controversies regarding food. Numerous decrees follow, regulating the sale of various products : cattle (Decree No. 142, June 14), potatoes (Decree No, 1,246, July 28), eggs (August 19), coffee and sugar (No. 1,721, November 18).

Industrial Associations (Decree No. 728, October 27).—The constitution is allowed of industrial associations concerned with the technical and economical improvement of national industries, and permission given for the registration of associations of tradespeople of the staple industries or kindred industries, provided they be in harmony with the general interest of the country. This proviso was introduced to prevent the creation of " trusts."

Exchange of Gold (Decree No. 26, January 10).—Rules are given for the determination of the exchange on gold during the war. This exchange is agreed upon between the Minister of Industry and the Minister of the Treasury, having for a base, the average selling and buying prices of the Exchange of London, fixed by the National Institute of Exchange, for the following week.

Decree No. 32, January 13 : the constitution of the Institute created by Decree 1,796 of December 11 is modified.

Chambers of Commerce (Decree No. 1,573, October 13).—The Italian chambers of commerce abroad are societies of Italian manufacturers and traders abroad, under the protection of the diplomatic and consular authorities, who form a part of the directive council.

Consular and Diplomatic Careers (Decree No. 241, February 14).—The examinations for candidates for the consular and diplomatic career are modified. Subjects of the examination are : international law, commercial and maritime law, civil law, constitutional and administrative law, criminal law, history, geography, economics, shorthand.

Export.—Various decrees prohibit the export of specified goods, among which are : silk-worms (Decree No. 296, February 21), marble (No. 420, March 24), precious stones (No. 569, April 21), Italian bank-notes and other valuables (No. 842, June 30).

Importation (Decree No. 684, May 26).—Rules are given for the importation of goods of foreign source or origin. The Minister of the Treasury, after having heard the opinion of the technical adviser, has the right to grant licences of importation, when, according to his opinion, it is a question of goods necessary to the country, and with which it is

not otherwise provided. Decree No. 1,261, August 29; for the importation of certain goods licences are prohibited; the Government administration is to provide for the needs of the civil population of such goods, by handing them over to establishments, private firms and companies, and, where necessary, by distributing them to the public.

Trading in Precious Stones and Gold (Decree No. 691, May 26).—Regulations are made for the exchange and trading in precious stones and gold, with the object of registering all negotiations of the kind.

Economic Blockade (Decree No. 875, June 30).—A committee is formed for the supervision of the economic blockade of the enemy States.

Damages of War (Decree No. 1,711, November 15).—A commission is formed for ascertaining the violation of the law of nations committed by the enemy, and the assessment of the damage caused.

5. UNITED STATES.[1]

Moratorium.—The Federal Act, No. 103, applies to proceedings in all the Courts, federal, state or district, in the country. It was enacted in pursuance of the war power, for the purpose of protecting persons in the service "from harassment and injury to their civil rights during their term of service and to enable them to devote their entire energy to the military needs of the nation." It does not interfere with the commencement of actions by or against persons in the service. It does not exempt such persons from civil process, or as a matter of right grant a stay either of action or of execution. Instead, it confers upon the Courts wide discretionary powers to protect the civil rights of those persons in the service whose ability to prosecute or defend an action, to comply with certain continuing contractual liabilities, or to satisfy a judgment, is materially affected by such service. The benefits of the Act may, in the discretion of the Court, be extended to sureties and guarantors of persons in the service. Provision is made for certificates by the war and navy departments which are *prima facie* evidence of service and the time of its beginning and ending. The Act expires six months after the end of the war.

The Act postpones for three months the landlord's summary remedies, without resort to a Court, by eviction or distress where the rent does not exceed $50 and the premises are occupied as a dwelling by the dependents of persons in the service. In States where summary remedies to secure possession are available they may be used by the landlord where the rent exceeds $50 per month; but where, as in New York, eviction involves court proceedings, such proceedings might be stayed. Except in Maryland, where actions for rent are expressly excepted from the stay provisions, the State Acts do not contain special provision for rent cases. Actions for rent would, therefore, be subject to stay as other contract actions, but the landlord might, except for the Federal Act, use his summary remedies.

The scheme adopted by the Federal Act for the protection of life insurance policies and benefit association memberships is peculiar. An application by the insured, when filed by the insurer, constitutes an acceptance of the provisions of this Act and entitles the policy to the benefits of the Act. Certain policies may not be brought within this Act.

[1] Abridged from the Report of the American Bar Association.

For example, those for more than $5,000 and those containing a provision making them voidable if the insured enters the military service. Policies brought within the Act may not be lapsed or forfeited for nonpayment of premium during service or for one year thereafter. While the insurer, like the conditional vendor, loses his summary remedy he is not saddled with the whole burden of the protection given to the man in the service. The insurer must keep the policy in force despite the insured's failure to pay the premium; but the United States guarantees the insurer against loss. This is accomplished by requiring the insurer to report monthly the amount of premiums on policies brought within the Act, overdue for thirty days, and by requiring the Secretary of the Treasury to deposit with the insurer registered United States bonds as security for the defaulted premiums. These bonds are to be held until final settlement, which is to take place one year after the end of the war. The United States is given a lien on any policy which it thus protects. If the insured does not within one year after the end of his service pay his defaulted premiums, the policy is to be void, the insurer must pay the cash value, and out of it pay the defaulted premiums. If on final settlement the insurer shows a loss of premiums, the United States is to pay the amount of the loss, whereupon the bonds deposited with the insurer are to be returned. The effect is to use the credit of the United States, and ultimately its funds, to protect the insurance company. It is true the company loses the right to lapse a policy and thereby avoid further liability under it, but otherwise it is protected even to the extent of 5 per cent. income on the amounts of the defaulted premiums. The landlord may lose three months' rent under the provisions preventing eviction, but an insurance company cannot by any chance lose anything. It would seem not even to be inconvenienced by delay. Indeed, companies doing an industrial business on the weekly payment plan will avoid the cost of collecting premiums.

Interstate and Foreign Commerce.—Congress (No. 126) in the Webb Export Trade Law excepts from the provisions of the Sherman Anti-Trust Law associations for export trade, or agreements by such associations in the course of such trade; provided that such association or agreement is not in restraint of trade within the United States or of the export trade of a domestic competitor of such association. This freedom of associations and agreements for export trade from the restrictions of the anti-trust laws is further qualified by the requirement that the association must not enter into any agreement or do any act which "artificially or intentionally enhances or depresses prices" in the United States on commodities of the class exported by the association or which "substantially lessens competition within the United States or otherwise restrains trade therein." The stock of an export trade association may be acquired and held in whole or in part by any other corporation, notwithstanding the provisions of the Clayton Act "unless the effect of such acquisition or ownership may be to restrain trade or substantially lessen competition within the United States." These export trade associations, while partially freed from the anti-trust and Clayton laws, are to be subject to the prohibition contained in the Federal Trade Commission Act against "unfair methods of competition." This prohibition is to apply even to Acts done outside of the United States. Certain information respecting their organisation and management is required to be furnished by these associations to the Trade Commission,

which is also given power to conduct investigation of any alleged violation by such associations of the laws dealing with restraint of trade and monopoly. The Trade Commission is given the powers to enforce its recommendations or findings contained in the Trade Commission Act.

This Act is intended to permit more co-operation between American exporters in finding and supplying foreign markets. When other nations are taking an active part in stimulating, subsidising or actually directing the expansion of their foreign trade, it is essential that the Government of the United States either permit co-operation among individuals and corporations seeking to expand foreign commerce, or itself take a more active part in that commerce.

Sedition.—Congress (No. 150) amends s. 3 of the Espionage Act to include those who wilfully utter, print, write or publish (*a*) disloyal, profane, abusive or scurrilous language about the Government, constitution, military forces or their uniforms or flag, or (*b*) language intended to incite or encourage resistance to the United States or promote the cause of its enemies, or (*c*) language advocating curtailment of production of things necessary to the prosecution of the war with the intent to cripple such prosecution, or (*d*) who wilfully display the flag of a foreign enemy, or (*e*) who advocate or defend any of the above acts. Violators are subject to $10,000 fine or imprisonment for not more than twenty years. A Government employee or official is also to be dismissed at once " by the authority having power to appoint a successor." Apparently such an authority need not wait until a conviction by the Courts nor even give an administrative hearing to the employee or official deemed to be a violator.

Sabotage.—Congress (No. 135) imposes a maximum punishment of $10,000 fine or thirty years' imprisonment on any person who with intent to or with reason to believe that his act may injure or obstruct the United States (or any other nation at war with a nation with which the United States is at war) in prosecuting the war, wilfully injures or destroys—

(*a*) Any article " intended for, adapted to or suitable for use " by the United States in connection with the war ;

(*b*) Or any place where such articles are being produced, stored or transported ;

(*c*) Or any military or naval station ;

(*d*) Or any means of transportation, including ships at sea ; or

(*e*) Any plant or equipment furnishing water, light, heat, power or facilities of communication to any of the places above mentioned.

Like punishment is imposed on any person who with similar intent wilfully makes or attempts to make in a defective manner any war material, tools, machines, etc., used in the production of war materials. The Act is by its terms limited to the destruction of war materials, premises and utilities related to the preparation or conduct of the war. However, it prohibits the destruction of any article " suitable " for use in connection with the war. There is hardly anything which would not fall within this description. It also forbids the injury to any place where any article, the destruction of which is forbidden, is produced, stored, transported, etc. It would be hard to think of any place which does not produce or contain an article which is " suitable " for use in connection with the war. Therefore, the Act is, in effect, a prohibition of destruction or injury to property with intent to interfere with the prose-

cution of the war. It is also a sabotage Act in that it imposes heavy criminal penalties for defective workmanship. One of the most drastic provisions of this Act authorises the Postmaster-General, when satisfied that any person is using the mails in violation of this Act, to order mail addressed to such person to be returned as "undeliverable."

Control of Alien Enemies.—Congress (No. 131) amended existing law providing for the regulation and internment of alien enemies by dropping from it words limiting its application to males, thereby subjecting alien enemy women to the same treatment as men. In this brief amendment is contained the material for much reflection on the conduct of modern warfare and the status of the modern woman.

Congress (No. 154) authorises the President, by proclamation, to declare that the public safety requires further restriction on the entry or departure of persons to or from this country. Thereupon it shall become unlawful for any alien to enter or depart except as provided in rules prescribed by the President, or for any citizen to enter or depart without a passport. It is also made unlawful to assist any person to enter or depart contrary to law or the rules prescribed by the President, or to use any forged, false or expired permit to secure such entry or departure. This law is especially aimed at passage over the Mexican border.

Naturalisation of Aliens.—Congress (No. 144) amends the naturalisation laws by providing for the speedy naturalisation of aliens serving in the army and navy. Under this law a petition for naturalisation may be filed without proof, either of preliminary declaration of intention or of the required five years' residence. Special provision is also made for the granting of citizenship to aliens serving in the merchant marine and for the resumption of citizenship by U.S, citizens who have lost their citizenship by reason of service in any of the Allied armies. This law also makes provision for carrying on the work of training aliens for citizenship now being conducted by the Bureau of Naturalisation.

Enemy Property.—A rider on the Urgent Deficiencies Appropriation Bill (No. 109) amends the Trading with the Enemy Act by giving to the custodian of alien property the powers, with respect to the sale and management of enemy property transferred, assigned or delivered to him, of an absolute owner thereof. Property sold by the custodian, except where the President, giving the reasons, orders otherwise, shall be sold at public auction to the highest bidder. Sales shall be made only to citizens and any person purchasing for an undisclosed principal or for resale to a person not a citizen or for the benefit of any person not a citizen is guilty of a misdemeanour, punishable by a fine not exceeding $10,000 or imprisonment not exceeding ten years, or both, and the property is forfeited to the United States. The proof of purchase for an undisclosed principal will, in most instances, not be available until the close of the war. Unless this provision is amended by providing that the Statute of Limitations shall not begin to run until the conclusion of the war, criminal action may be barred before the evidence of the crime is available.

Compulsory Labour.—Laws imposing a duty to engage in useful work have been enacted in a number of States. This legislative attack on the right to be idle seems to have started with the enactment in Kansas (1917, c. 167) of a law defining vagrancy to include refusal to accept employment. West Virginia (Sp. 1917, c. 12) went further and expressly

declared it to be the duty of every able-bodied male, except students and strikers, to work at least thirty-six hours a week. Failure to comply with this requirement was made a misdemeanour, punishable by sixty days' public work. Each week of idleness constituted a separate offence, and therefore the punishment provided by this Act amounted in practice to compulsory continuous employment. Kentucky (c. 178) follows closely the West Virginia law, but its enforcement provisions are more stringent. Under it, inability to obtain work is in no case a defence. Such a provision must necessarily be founded on the assumption either that there is real shortage of labour or that the State will find work for all. Summary convictions are authorised, and the right to appeal is dependent on security not to violate the law pending the appeal. Maryland (Sp. 1917, c. 33) requires the registration of able-bodied men between eighteen and fifty who are not usefully employed, and authorises the Governor to assign them to some public or private employment. Failure to register or to do the work assigned is punished by fine or imprisonment. Students and strikers are excepted, but the possession of means of support is no defence to failure to work. The hours and wages of persons assigned to work are to be those usual in similar employments.

Massachusetts (c. 286), New Jersey (c. 55), New York (c. 625), Rhode Island (c. 1,661) and Delaware, likewise impose a duty to work on able-bodied men when by proclamation the Governor declares such employment essential for the protection of the public welfare during the war. While requiring every one to work, these laws, recognising the possibility of inability to secure employment, provide that persons who have applied to a designated public agency for employment are not to be prosecuted pending their assignment, and that, if such agency be unable to secure employment, it shall issue a certificate to that effect, which likewise protects against prosecution. These Acts also except strikers and students, but include all other male persons found in the State. See also Georgia (No. 348) and Louisiana (No. 139).

South Dakota (c. 62) grants to the State Council of Defence power to "impress" into public or private employment all unemployed persons. General authority is given to the Council to make rules to carry out the purpose of the Act, and violation of these rules is made a criminal offence.

Habitual idleness or refusal to accept obtainable work is included in the definition of sedition in Nebraska (Sp. 1918, c. 5) and punished as such.

The purpose of these compulsory labour Acts is not so much to prevent the evils of idleness as to secure to the public the economic benefit of the work of the individual. They are not labour conscription Acts; strikers are specially excepted from their provisions. They seek to stimulate the individual to usefulness. The New York Act, however, seems to give to the Governor power to determine what are useful industries and to concentrate in those industries the man-power of the State.

Housing.—Even more drastic in its regulation of the rights of landlords than the federal moratorium law, which subjects to judicial discretion and provides for three months' stay of proceedings to recover property leased to and occupied by men in the service or their dependents, is a resolution of Congress (Res. No. 31), which practically takes away during the war the right of the landlord to evict and recover possession of leased premises in the District of Columbia, so long as the

tenant pays the rent under an existing lease and commits no nuisance or waste. In effect this resolution, which applies to the lease of a room as well as a building, makes existing leases continuous at the option of the tenant until further action by Congress, or the end of the war. This is probably the most drastic and indirect use by Congress of its war power. Housing conditions in Washington have probably called for some governmental regulation of the right of landlords to charge all that the traffic would bear. So-called " rent profiteering " bills have been pending in Congress, but their enactment has been delayed in conference. This resolution appears to have been enacted as an interim provision pending the enactment of a more carefully considered law.

Private owners of housing accommodations there cannot be permitted to interfere with the development and operation of the governmental machinery for conducting the war by making living conditions intolerable or prohibitive.

Congress (No. 102), in order to provide housing accommodations for shipyard employees, authorises the Emergency Fleet Corporation to hire or construct buildings or to make loans to stimulate the erection of such buildings. This Act carries an appropriation of $50,000,000. Among the limitations on the use of this fund is one which prohibits the cost-plus-contract, unless the contract fixes the reasonable cost, and provides that, in case of increase in cost, the percentage of profit shall decrease as the cost increases.

Administrative Organisation.—The Overman Bill (No. 152) authorises the President, during the war and " in matters related to the conduct of the war," to redistribute in his discretion the powers, duties and functions of existing federal executive agencies. Except for aircraft production, the President is not authorised to create any new agency or to abolish an existing agency, but is limited to the transfer from one to another of the existing departments, bureaus, commissions, etc., of any or all of their powers, duties, personnel and funds. Such transfers, if made, become ineffective six months after the end of the war and thereupon the statutory organisation and functions of the executive agencies are to be restored. The purpose of the Act is to remove statutory restrictions on the power of the President to organise the executive branch of the Government in such way as he deems most efficient for the conduct of the war.

Absent Voting by Soldiers and Sailors.—Though many of the laws authorising absent voting are limited to voters in the military service, some are applicable to all voters absent from their residence districts. In so far as these Acts [1] seek to take the vote of soldiers and sailors on duty outside the United States, their purpose is defeated by a recent decision of the Adjutant-General that their vote cannot be taken without serious interference with military efficiency. This decision, however, authorised state officers to apply for permission to take the vote of men in the service who are within the United States and was subsequently modified as to those outside the United States. Maryland and Rhode Island submit constitutional amendments authorising the Legislature

[1] Ariz. (Sp. 8, c. 11) ; Conn., Sp. 1918 ; Del., Sp. 1918 ; Ky., c. 37 ; La., Sp. 7, Nos. 34, 264, 272 ; Miss., c. 184 and Sp. 7, c. 35 ; Md., c. 20 and c. 78 ; Mont., c. 18 ; Nebr., Sp. 8, cc. 1, 2, 3 ; N.J., c. 150 ; N.Y., c. 298 ; N.D., Sp. 1918, c. 6 ; R.I., c. 1,610, c, 1,657, and c. 1,658, and Res. S. 93 ; S.C., 574 ; S.D., Sp. 1918, c. 46 ; W. Va., 2d Sp. 7, c. 13 ; Wis., Sp. 8, c. 16.

to provide for the taking of the vote of men in the service. At the same time, in anticipation of the adoption of this constitutional amendment, the Maryland Legislature passed an Act providing for the taking of this vote. This Act raises an interesting question of the power of the Legislature to pass an Act which is to go into effect if and when the constitution is amended so as to authorise the Act.

War Risk Insurance.—The Bureau of War Risk Insurance was authorised (No. 195) to insure vessels of " foreign friendly flags," their freight, crews, etc. The soldiers' and sailors' compensation and insurance law, which is administered by the War Risk Bureau, was amended in many important details by Congress (No. 175). Provision for " vocational rehabilitation " of soldiers and sailors disabled in the service was provided for in Congress (No. 178). Just as the War Risk Act sought to improve on the old pension laws by paying the disabled men the approximate loss of earning power, occasioned by a disease or injury incurred in the service, so this Act goes one step further and provides for a system of vocational re-education and readjustment for the purpose of restoring the lost earning capacity of the disabled man.

War Prohibition.—Congress (Res. No. 40) authorises the President to establish zones about war munition and like plants within which intoxicating liquors may not be manufactured or sold. A recent Act of Congress prohibits manufacture and sale of intoxicating liquors during the war emergency. Curiously enough, this Act was approved after the signing of the Armistice with Germany, though by its terms it does not come into effect until July 1, 1919. A number of state laws forbid the sale of intoxicants to men in uniform or within a specified distance of a camp.

Daylight Saving.—Congress (No. 106) directs the Interstate Commerce Commission to divide the United States into five zones and prescribes a standard time for each which is to govern the movement of interstate commerce and all questions of time in statutes, regulations, etc., affecting any branch of the Government of the United States or any matter subject to the jurisdiction of the United States. The daylight saving is accomplished by a requirement that the standard time be advanced one hour in March and retarded one hour in October annually. This is not a war measure ; it is not limited to the period of the war.

Torrens Law.—A comprehensive Torrens system law was enacted in Georgia (1917, No. 194) and the existing Torrens law in New York was so amended as to increase its attractiveness to real estate owners. New Jersey (c. 226) provides a standard form of mortgage. It is a simplified form which is expressly declared to have the same effect as the superseded and longer form which is printed in the Act. There are also simplified forms of covenants which are likewise declared to have the same effect as the longer form, which is also printed in the statute. New Jersey (c. 37) eliminates the necessity for a statement by a married woman that her acknowledgment was made on private examination apart from her husband, freely and without compulsion. Massachusetts (c. 68) dealing with the power of trustees to change investments provides that his receipt for property payable to him shall be sufficient discharge of the person making the payment from any duty to see to the application of the property so delivered.

Uniform Laws.—Uniform laws recommended by the Conference of Commissioners on Uniform State Laws have been enacted as follows :

Uniform Partnership Act, Va. (No. 365);
Uniform Limited Partnership Act, Va. (No. 216);
Uniform Warehouse Receipts Act, Porto Rico (No. 9);
Uniform Flag act, Md. (No. 281);
Uniform Extradition Act, La. (No. 221).

Prohibition.—Congress, by resolution adopted April 2, 1918, proposes an amendment to the Constitution of the United States prohibiting manufacture, sale or transportation of intoxicating liquors or their importation or exportation from and after one year from the date of the ratification of this amendment. The amendment also contains the limitation that it is to be inoperative unless ratified by two-thirds of the States within seven years from the date of its submission. It also contains the extraordinary provision that "the Congress and the several States shall have concurrent power to enforce this article by appropriate legislation." It is difficult to understand what is meant by this provision. It cannot be accepted as meaningless. Does it mean that, in case of difference between a state prohibition law and a federal prohibition law, the state law may prevail if it was enacted prior to the federal law? It is not difficult to foresee many possibilities of conflict and confusion arising from this constitutional declaration that the power of the State and the nation with respect to prohibition is to be "concurrent." Our constitutional division of powers between the federal and the state governments has heretofore been founded upon a distinction between matters that are national and matters that are local. This amendment proposes to make of prohibition a matter of both *national and local* concern and to give concurrent powers to the federal and state governments with respect to it. The amendment has been ratified in the following States: Arizona; Delaware; Florida; Georgia; Kentucky; Louisiana; Maryland; Massachusetts; Mississippi; Montana; North Dakota; South Carolina; South Dakota; Texas; Virginia.

An amendment to the State Constitution proposing general prohibition was submitted in Kentucky (No. 63); and a general prohibition Act was passed in Virginia (No. 388). Texas, in a series of Acts, provides for the enforcement of general prohibition. Massachusetts (No. 189) prohibits the shipment of intoxicating liquors within the State, including shipment into the State. All of these Acts are passed on the assumption that the Supreme Court decision upholding the Webb-Kenyon law authorises the State not only to prohibit manufacture and sale within its borders, but also to prohibit importation. General prohibition, beginning July 20, 1919, and continuing for the period of the war, was enacted by Congress.

Education.—New York (c. 246) excludes from the public schools any text-book which "contains any matter or statements of any kind which are seditious in character, disloyal to the United States, or favourable to the cause of any foreign country with which the United States is now at war." A Commission is created to examine complaints against text-books dealing with civics, economics, history, language and literature. If a book be disapproved, the commission's certificate to that effect is to be forwarded to the school authorities and the use of the book is thereupon to be discontinued. Contracts hereafter made for the purchase of a disapproved book are declared to be void, and a school officer or teacher who permits its use in a public school is made guilty of a misdemeanour.

Franchise.—Constitutional amendments are proposed in South

Dakota (Sp. 8, c. 31) and Nebraska (Sp. 8, ch. 11) under which persons of foreign birth are to be permitted to vote only after they have become naturalised instead of after they have declared their intention to become citizens.

Louisiana (H. J. R. 28) proposes an amendment to the Constitution giving the right of suffrage to women. Texas (Sp. 8, c. 34) provides for woman suffrage at primary elections and nominating conventions.

Labour.—There has been no extension this year of the commission idea for the administration of labour laws. New York (No. 455), however, makes an important change in the law providing for an Industrial Council, equally representative of employers and employees and serving as an advisory board to the Industrial Commission. The previous law expressly prohibited the payment of any compensation to the members of the Industrial Council. This provision was evidently founded on the idea that the members of this Council were to be representative of organised employers and organised employees, and that their expenses and their compensation, if any, should be paid by the organisations which they represented. In view of the fact that the legislation creating the Industrial Council placed the appointment of its members in the hands of the Governor, and made the members public officers rather than representatives of organisations, there was no justification for the prohibition of payment of compensation and expenses. The effect of the law will probably be that representatives of labour will find it possible to accept appointment to the Council and devote time to its work without hardship.

One of the most interesting administrative changes in the field of labour law is that contained in New York (No. 456) providing for reorganisation of the Bureau of Labour Statistics. The state labour departments now engaged in the enforcement of important statutes had their beginning in bureaus, the purpose of which was not to enforce any law but to gather statistics and disseminate information respecting labour conditions. They were investigating and publicity bureaus. They sought to accomplish improvement in the labour conditions by bringing the facts to the attention of the general public. The amendment converts the Bureau of Statistics into an agency to provide the Industrial Commission with the facts and statistics required by it for the administration of the labour law instead of an agency to provide the public with information as to labour conditions.

New Jersey (No. 235) creates in the department of labour "a migrant welfare and employment bureau," which shall "investigate the conditions under which migrants are living and work in this State, shall instruct them in the rules of sanitation and sanitary living, shall endeavour to procure proper housing facilities and assist in securing suitable employment for migrants."

One of the most interesting changes in organisation for administration of labour laws is that contained in New Jersey (No. 149), which abolishes the Compensation Aid Bureau created in 1916 and creates a Workman's Compensation Bureau. The significance of this change lies in the fact that the New Jersey workmen's compensation law, unlike most of those now in force, in the other States, did not provide an administrative agency for determining the right to and the amount of compensation in a particular case. The law declared the right to compensation and fixed more or less definitely its amount, leaving the individual claimant to

resort to the Courts to enforce his right in a particular instance. The Compensation Aid Bureau created in 1916 was intended to provide the claimant with free legal and other assistance in filing and prosecuting his claim. This very interesting attempt to declare new statutory rights and provide public legal aid to the workmen and their dependents to enable them to enforce those rights in the Courts is now replaced after a short trial by an administrative agency which is authorised to investigate compensation claims, make awards and endeavour to obtain settlement of claims without litigation. The transition accomplished by this legislation is from administrative assistance to the litigant in judicial proceedings to administrative determination, at least in the first instance, with a view to avoiding litigation in the Courts.

Wages and Hours.—Minimum wage legislation affecting private employments is confined to the Act of Congress (No. 215) establishing a Minimum Wage Board with authority to fix minimum wages in the District of Columbia.

New York (No. 32) requires that employers allow their employees an absence of two hours without deduction of wages in order to vote at any election. The system of fining workmen for lateness is regulated by Massachusetts (No. 197), which prohibits deductions from the wages of a mechanic, workman or labourer on account of tardiness "in excess of the proportionate wage which would have been earned during the time actually lost."

Massachusetts (No. 149), while not preventing "tips," prohibits the receipt of the tip by the employer of the person tipped. The Act makes it unlawful for any person or corporation, directly or indirectly, to receive any gratuity given to an employee of such person or corporation for the checking of clothing.

Workmen's Compensation.—New Workmen's Compensation Acts were passed in Virginia (c. 400) and Porto Rico (No. 10). An important amendment to the existing workmen's compensation law is made in New Jersey (c. 149), which creates a Workmen's Compensation Bureau in the department of labour to supervise the settlement of compensation claims and to pass, in the first instance, on the merits of contested claims. Provision is made for hearings by the bureau of which the rules of evidence are not to be binding. A summarised statement of the testimony and the judgment is to be filed and is to constitute the record in the case. A copy of the judgment, when filed with the county clerk, has the same effect as a judgment of the County Court, and is to be final unless reopened by the bureau or appealed from. On appeal to the Courts the trial is to be *de novo*. Louisiana (No. 39) forbids wage deductions for the payment of compensation insurance. New York (No. 634) extends the Compensation Act, heretofore applicable only to specified hazardous employments, to all employments in which five or more are engaged except domestic and farm employments; and (No. 249) re-enacts those provisions of the law held unconstitutional in the *Jensen* case. This re-enactment is in pursuance of the Act of Congress (passed after the decision of the Supreme Court) permitting the exclusion under state compensation laws of longshoremen and others who are also under Admiralty jurisdiction. Kentucky (c. 176) makes important amendments in the compensation law, and (c. 52) enacts for the State the rules of the Federal Employers' Liability Act in intra-state actions of injured employees against railroad carriers. Investigation of insurance

of employees under the Workmen's Compensation Act, and similar insurance, is provided for in Louisiana (S.C.R. No. 37). New York (No. 192) defines and regulates group life insurance of employees.

Health.—Co-operation between the States in regard to health matters is suggested by Rhode Island (H. Res. 697) requesting the State Board of Health to consider the advisability of establishing medical reciprocal relations with other States. Kentucky (No. 65), after reciting that more than half the sickness and deaths from communicable disease could be prevented and that the draft law shows one-third of the young men in the State unfit for service, but that 94 per cent. of the unfit were curable, and that Government in a "democratic commonwealth" should be carried on by smaller units of the people, amends the health laws by creating bureaus to deal with tuberculosis, pure food and drugs, sanitation, prevention of epidemics and hotel inspection. Virginia (c. 233) after reciting that the number of available physicians is decreasing in proportion to population, and that "sickness and disease may be decreased much by preventive measures" provides for medical inspection of school children and the employment of visiting nurses to treat pupils in the schools and at home.

Among the provisions for improving sanitary conditions are the laws in New Jersey (c. 258), New York (c. 369) and Louisiana (c. 162) regulating the manufacture and sale of mattresses, and particularly requiring not only tagging of mattresses made of second-hand materials, but also the sterilisation of such materials.

Another interesting sanitary regulation is contained in Virginia (c. 313) prohibiting in publicly frequented places "the use of the drinking-cup in common." Like the Virginia law of 1916 prohibiting the use of the common towel, this Act is curiously phrased. In the absence of a definition it might be difficult for a Court called upon to impose the penalty provided by the law to determine exactly what constitutes "the use of the drinking-cup in common."

Measures for the prevention of the spread of venereal diseases are contained in a number of state enactments. Advertisement of remedies for such diseases is prohibited in Kentucky (c. 175), Texas (Sp. 1918, c. 92) and Virginia (c. 373). Massachusetts (c. 111) authorises physicians to communicate, without liability for slander or libel to any applicant for such information, the fact that another person from whom such applicant has received a promise of marriage is infected with such a disease. The examination, detention and treatment of inmates of public institutions to detect and cure such diseases is provided for in Massachusetts (c. 58), Virginia (c. 404) and Rhode Island (c. 1,613). Massachusetts (c. 96) also protects against publication the records of hospitals and other institutions pertaining to such diseases.

A more advanced step is taken in statutes providing for the detention and treatment of persons, not the inmates of any institution or accused of any crime, who may be found to be suffering with such diseases. New York (c. 264) provides that health officers who have reasonable ground to believe that a person is infected with such disease, and is likely to be a source of infection to others, may require such persons to submit to a physical examination. If found to be infected, they may be required to submit to treatment which may include isolation. Another New York Act (c. 342) creates a bureau to buy and dispense remedies and to distribute literature for the suppression or cure of such diseases. Compulsory

treatment, including quarantine, is also required in New Jersey (c. 253), Wisconsin (Sp. 8, c. 9), Louisiana (c. 61), South Carolina (c. 518) and Mississippi (c. 194); Texas (Sp. 8, c. 85) requires the reporting of all such cases, and otherwise provides for prevention of the spread of the disease.

Protection of Children.—Pensions for widowed mothers for the support of their children are authorised by Virginia (c. 80). It is made a misdemeanour to contribute to the neglect, dependency or delinquency of minor children in Texas (Sp. 8, c. 63) and Louisiana (c. 169). Kentucky (c. 77) provides, in counties of two hundred thousand population, a supervisor of parents charged with wilful desertion or abandonment of indigent children. The supervisor is to report in such cases the amount which should be paid for maintenance, and his report is to be presented to the judge having jurisdiction in such cases.

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